IN THE

United States Circuit Court of Appeals

For the Seventh Circuit

OCTOBER TERM, A. D. 1931.

No. 4764

H. C. W. LAUBENHEIMER, UNITED STATES MARSHAL, AND GODFREY HAGGARD, HIS BRITANNIC MAJESTY'S CONSUL GENERAL,

Appellants,

vs.

JOHN FACTOR, DESCRIBED IN THE EXTRADITION PROCEEDINGS AS HARRY WISE, ALIAS J. FACTOR, ALIAS GUEST, ALIAS J. WALKER,

Appellee.

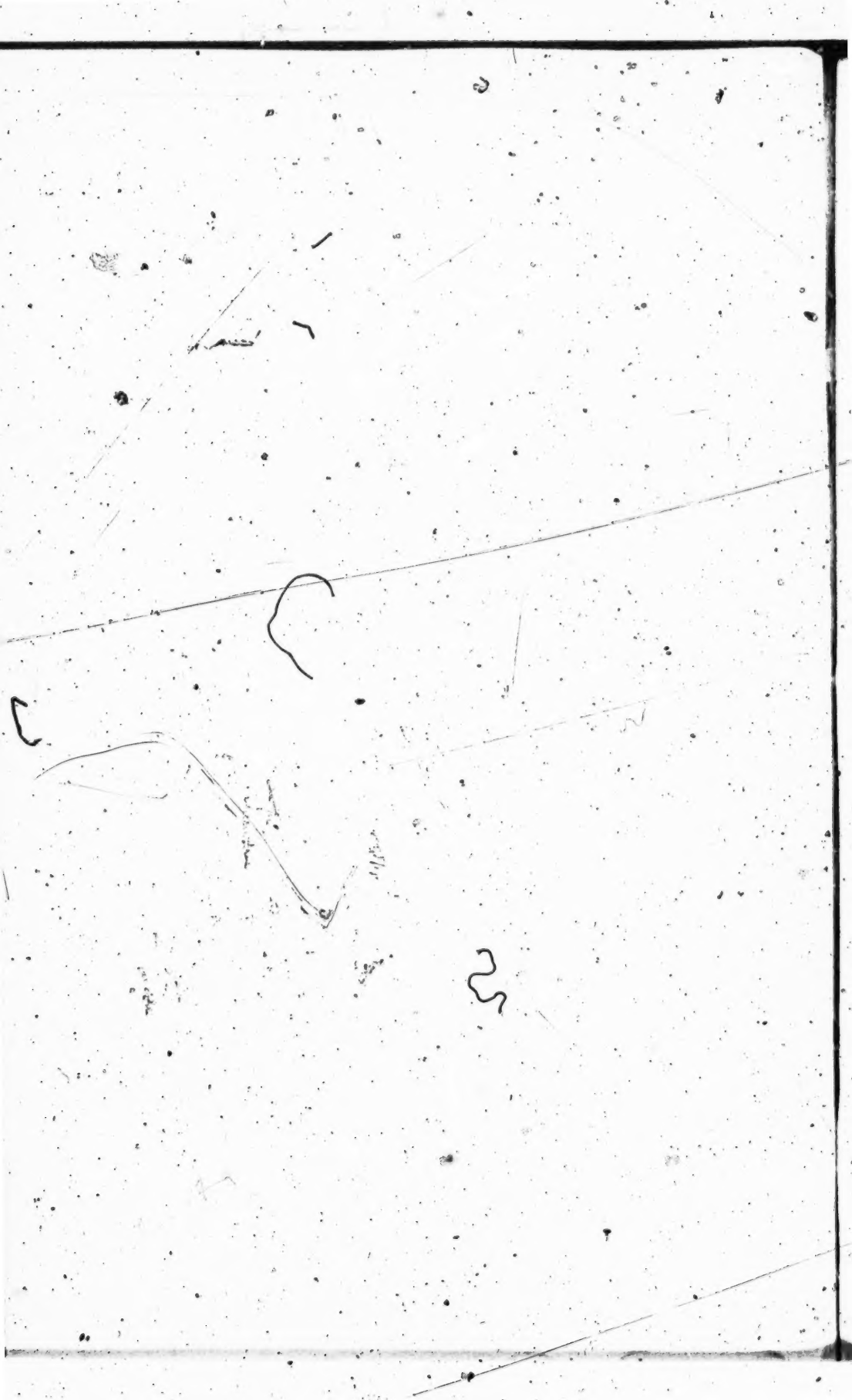
Counsel for Appellants:

MR. FRANKLIN R. OVERMYER,
MR. ADELOR J. PETIT, JR.,
MR. JOHN G. DRENNAN,

Counsel for Appellee:

MR. RUSH C. BUTLER,
MR. S. O. LEVINSON,
MR. G. GALE GILBERT, JR.,
MR. ALLEN J. CARTER,
MR. DON M. PEEBLES,

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division.



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1 Pleas in the District Court of the United States for the Northern District of Illinois, Eastern Division, begun and held at the United States Court Room, in the City of Chicago, in said District and Division, before the Honorable George A. Carpenter, District Judge of the United States for the Northern District of Illinois on Eleventh day of February, in the year of our Lord one thousand nine hundred and Thirty-two, being one of the days of the regular February Term of said Court, begun Monday, the First day of February, and of our Independence the 156th year. Placita

Present:

Honorable George A. Carpenter.
H. C. W. Laubenheimer, U. S. Marshal.
Charles M. Bates, Clerk.

12. 2 IN THE DISTRICT COURT OF THE UNITED STATES

Northern District of Illinois

Eastern Division.

United States of America *ex rel.* John Factor
vs.
H. C. W. Laubenheimer, United States Marshal for the Northern District of Illinois, Eastern Division. } No. 40323.

Be It Remembered, that the above-entitled action was commenced by the filing of the following Petition for Writ of Habeas Corpus in the above-entitled cause, in the office of the Clerk of the District Court of the United States for the Northern District of Illinois, Eastern Division, on this the 12th day of January 1932.

3 (Caption)

PETITION FOR WRIT OF HABEAS CORPUS.

Now comes John Factor and presents to the United States District Court for the Northern District of Illinois, Eastern Division, his petition that a writ of habeas corpus issue to relieve him of the detention under which he is now restrained, and he shows unto the Court here:

First: That your petitioner is now actually imprisoned and restrained of his liberty and detained by color of authority of the United States in the custody of H. C. W. Laubenheimer, United States Marshal in and for the Northern District of Illinois, to wit, at the City of Chicago and State of Illinois in the aforesaid district and division.

Second: That the sole claim and sole authority by virtue of which said H. C. W. Laubenheimer, Marshal as aforesaid, so restrains and detains your petitioner is a certain document which purports to be a mittimus in writing, a copy of which is hereunto annexed and marked Exhibit "A" and incorporated herein by this reference thereto.

4 Third: That the said mittimus was issued by Edwin K. Walker, Esq., a United States Commissioner, in a

certain proceeding instituted by Godfrey Haggard, Consul General of the Kingdom of Great Britain, on behalf of the Kingdom of Great Britain under color of a treaty between the United States of America and the Kingdom of Great Britain, upon the charge that your petitioner had committed certain alleged crimes within the jurisdiction of the Kingdom of Great Britain.

Fourth: That said Godfrey Haggard, Consul General of the Kingdom of Great Britain, did on the 12th day of May, A. D. 1931, make application to Edwin K. Walker, United States Commissioner as aforesaid, for a warrant, and did file with said Commissioner a complaint, copy of which is attached hereto and marked Exhibit "B".

Fifth: That on the 20th day of May, A. D. 1931, your petitioner voluntarily appeared before the said Edwin K. Walker, Commissioner as aforesaid, to answer the charges made in said complaint so made as aforesaid by the Consul General of the Kingdom of Great Britain.

Sixth: That on the 25th day of May, A. D. 1931, the original complaint and warrant filed and issued in the above entitled proceedings were, by the Consul General aforesaid, voluntarily dismissed, and a second complaint filed, upon which a warrant for your petitioner's arrest was issued and served, which said second complaint and warrant are attached hereto and marked Exhibit "C" and Exhibit "D" respectively, and made a part hereof by reference.

5 Seventh: That your petitioner did not do the acts or commit the crimes set forth in the aforesaid second complaint, or any of them, either within the Kingdom of Great Britain or anywhere else.

Eighth: That the said second complaint does not charge your petitioner with a crime which is extraditable under and by virtue of the provisions of the treaty entered into by and between the United States of America and the Kingdom of Great Britain, and that the said second complaint, the warrant issued thereunder and the mittimus aforesaid are each and all null and void and of no force and effect whatsoever.

Ninth: That to constitute an extraditable offense under the Treaty entered into by and between the United States of America and the Kingdom of Great Britain, an offense must be charged which is not only specifically named in the Treaty, but which is a crime under the laws of the country to which extradition is sought, and which also is made criminal under the laws of the State within which the accused is found.

Tenth: That the offense within which the respondent is charged in and by the second complaint filed before Edwin K. Walker. United States Commissioner as aforesaid, charges the respondent with "receiving money knowing the same to have been fraudulently obtained"; that "receiving money knowing the same to have been fraudulently obtained" is not made criminal under the statutes and laws of the United States of America or of the State of Illinois.

Eleventh: That on the 25th day of May, A. D. 1931, immediately upon the filing of the aforesaid second com-
6 plaint before said Edwin K. Walker, Commissioner as aforesaid, your petitioner, by his counsel, duly moved to dismiss the aforesaid proceeding upon the ground that the second complaint did not charge an offense or crime which was extraditable under said treaty between the United States of America and the Kingdom of Great Britain.

Twelfth: That on, to wit, the 14th day of July, A. D. 1931, said Edwin K. Walker, United States Commissioner, as aforesaid, did then and there overrule the motion of the respondent to dismiss said complaint and quash the warrant and proceedings, and did hold among other things that although he had not been able to ascertain that said offense as charged, that is, to wit, "receiving money knowing the same to have been fraudulently obtained" was made criminal by the statutes or laws of the State of Illinois, that the respondent should be held in custody and the applicant, the said Consul General of the Kingdom of Great Britain, would be permitted to introduce evidence in support of said charge.

Thirteenth: That thereafter on divers days there were presented to the said Edwin K. Walker, United States Commissioner, in support of the said complaint of the said Godfrey Haggard, filed on the 25th day of May, A. D. 1931, certain depositions and documents called exhibits, which said depositions and documents called exhibits were not competent evidence to establish by proof that there was good reason to believe the crime alleged in the aforesaid complaint of the said Godfrey Haggard was committed and was committed by your petitioner.

Fourteenth: That the said Edwin K. Walker, United States Commissioner as aforesaid, did consider said depositions and documents called exhibits as evidence constituting proof furnishing good reason to believe that the crime alleged in the said complaint of the said Godfrey Haggard was committed and was committed by your petitioner.

7 Fifteenth: That the said Edwin K. Walker, United States Commissioner as aforesaid, having considered said depositions and documents called exhibits, and having also received and considered the verbal testimony of several certain witnesses and exhibits offered in evidence at the time such verbal testimony was received, formed an opinion therefrom, a copy of which said opinion is attached hereto, made a part hereof, and marked Exhibit "E", and thereupon, and on the said 12th day of January, A. D. 1932, made, executed, and delivered the aforesaid mittimus marked Exhibit "A".

Sixteenth: That the aforesaid depositions and exhibits being all of the proof offered in evidence in support of the aforesaid complaint of the said Godfrey Haggard in the aforesaid proceedings before the said Edwin K. Walker, United States Commissioner, do not constitute proof furnishing good reason to believe that the crime alleged in the complaint of the said Godfrey Haggard was committed and was committed by your petitioner. In consequence whereof there was no proof of probable cause appearing in the aforesaid depositions and exhibits offered to the said Edwin K. Walker, as United States Commissioner, to warrant the said Edwin K. Walker, as United States Commissioner, to believe the pretended crime attempted to be charged in the aforesaid complaint of the said Godfrey Haggard was committed and was committed by your petitioner, and that the said depositions, exhibits and pretended evidence were wholly insufficient upon which to warrant the commitment of your petitioner as aforesaid.

Seventeenth: That the said Edwin K. Walker, as United States Commissioner, was without jurisdiction to cause
8 the arrest of your petitioner and to proceed against him in the manner aforesaid, and that the said mittimus marked Exhibit "A", whereby your petitioner was committed to the custody of the said Marshal, and whereby he is held in custody of the said Marshal and imprisoned and restrained of his liberty, was wholly without authority in law and void.

Eighteenth: That the said Edwin K. Walker, as United States Commissioner, was without lawful authority to cause the arrest of your petitioner, and to proceed against him in the manner aforesaid, and that the said mittimus marked Exhibit "A", whereby your petitioner was committed to the custody of the said Marshal, and whereby he is held in the custody of the said Marshal and imprisoned and restrained of his liberty, was wholly without authority in law and void.

Nineteenth: That the said Edwin K. Walker, as United States Commissioner, was without jurisdiction of the person of your petitioner because, your petitioner avers, the said complaint of the said Godfrey Haggard does not charge an offense known to the law of the State of Illinois, in consequence whereof the aforesaid Edwin K. Walker was without power and authority in law to receive evidence in support of the charge made in the said complaint of the said Godfrey Haggard and to hear and determine the aforesaid charge in the said complaint of the said Godfrey Haggard.

Twentieth: That your petitioner is not held by virtue of any valid process by any court or judge of the United States; that your petitioner is not held by virtue of a final judgment or decree of any competent court of civil or criminal jurisdiction, or of any execution issued upon such judgment or decree, and that your petitioner is not held for any treason, felony or other crime committed in any other state or territory of the United States, for which your petitioner ought, by the Constitution and laws of the United States to be delivered up to the executive power of such state or territory.

Twenty-first: That the commitment of your petitioner is absolutely void, and your petitioner is now confined and deprived of his liberty in violation of the Constitution of the United States of America and in violation of the Statutes of the United States of America and in violation of the rights secured to your petitioner by said Treaty.

Wherefore, your petitioner prays that a writ of habeas corpus may issue out of, and under the seal of, this Honorable Court, directed to the said H. C. W. Laubenheimer, United States Marshal in and for the Northern District of Illinois, Eastern Division, and to each and all of his deputies, requiring him and them to bring and have your petitioner before this Court at a time to be by this Court determined, together with the true cause of the detaining of your petitioner, to the end that due inquiry may be had in the premises, and that upon such inquiry said writ of habeas corpus may be maintained, and your petitioner may be discharged from custody; and that pending such hearing and inquiry as aforesaid, your petitioner may be enlarged on reasonable bail.

And your petitioner will ever pray.

JOHN FACTOR
Petitioner.

United States of America
Northern District of Illinois } ss.
Eastern Division

County of Cook
State of Illinois } ss.

JOHN FACTOR being first duly sworn on oath, deposes and says that he is the petitioner above named, has read the foregoing petition and knows the contents thereof; that the foregoing petition, and each and all of the representations and averments therein contained are true to his own personal knowledge; and that no previous application for a writ of habeas corpus has been made upon all the facts appearing to the foregoing petition.

JOHN FACTOR.

Subscribed and Sworn to before me this 12th day of January, A. D. 1932.

G. GALE GILBERT JR.
Notary Public.

RUSH C. BUTLER
LEVINSON, BECKER, GLENN & SCHWARTZ and
DAVID D. STANSBURY
Counsel for Petitioner.

11 EXHIBIT "A".

Before Edwin K. Walker, Esq., United States Commissioner for the Northern District of Illinois, Eastern Division.

In the Matter of the Application for Extradition of Harry Wise alias J. Factor, alias Guest, alias J. Walker, a fugitive from justice under the Treaty between the United States and Great Britain.

United States of America
Northern District of Illinois } ss.
Eastern Division

The President of the United States of America to the Marshal of the Northern District of Illinois, and to His Deputies, or to Any of Either of Them, and to the Keeper of the Common Jail of the County of Dekalb, at Sycamore, in the State of Illinois, Greeting:

Whereas, the above named Harry Wise alias J. Factor, alias Guest, alias J. Walker, has been arrested on the oath of Godfrey Haggard, his Brittanic Majesty's Consul General, at Chicago, Illinois, United States of America, for having on or about between the 14th day of July, 1930, and the 26th day of August, 1930, at the city of London, England, and within the jurisdiction of his Britannic Majesty, committed the crime of receiving money, knowing the same to have been fraudulently obtained; that on or between the 3rd day of October, 1930, and the 27th day of October, 1930, at the aforesaid city of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received money, knowing the same to have been fraudulently obtained; that on or between the 14th day of June, 1930, and the 30th day of September, 1930, at the aforesaid city of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received money, knowing the same to have been fraudulently obtained; in each instance from Broad Street Press; and

Whereas, the crime with which the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is herein charged is an offense within the Treaties between the United States and Great Britain; and

Whereas, an examination of the charges against said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, has been had before me, Edwin K. Walker, United States Commissioner for the Northern District of Illinois, Eastern Division, specially authorized by order of the District Court to perform all the duties of a Commissioner under the Extradition Laws and Treaties of the United States, and it appearing to me, the said Commissioner, that there is probable cause to believe said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, committed the crime charged, and it is Hereby So Found and Adjudged.

Now, Therefore, in the name and by the authority aforesaid, these are to command you, the Marshal, as aforesaid, to commit the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, to the custody of the Keeper of said Common Jail in Sycamore, DeKalb County, Illinois, and to leave with the Keeper of said Common Jail a certified
12 copy of this writ, and to command you, the Keeper of said jail, to receive and keep the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, to abide the order of the Secretary of State of the United States.

Witness my hand and seal this 12th day of January, A. D. 1932.

(Signed) EDWIN K. WALKER.

United States Commissioner for the Northern District of Illinois, Eastern Division, and a Commissioner duly authorized by the District Court of the United States for the Northern District of Illinois, to act as a commissioner under the laws of the United States concerning the extradition of fugitives from justice of a Foreign Government under treaty or convention between this and any foreign government.

13 EXHIBIT "B".

Before Honorable Edwin K. Walker United States Commissioner.

In the Matter of the Application for Extradition of Henry Wise alias J. Factor alias Guest alias J. Walker, a Fugitive from Justice, Under the Treaty Between the United States and Great Britain.

United States of America
Northern District of Illinois } ss:

GODFREY HAGGARD, his Britannic Majesty's Consul General Chicago, being first duly sworn, upon his oath deposes and says that he is informed and believes and thereupon states:

That heretofore and on or between the 14th day of July, 1930 and the 26th day of August, 1930, at the city of London, England and within the jurisdiction of his Britannic Majesty one Harry Wise alias J. Factor alias Guest alias J. Walker received from Broad Street Press, Ltd. the sum of £15,000 sterling and £70,000 sterling, respectively, knowing the same to have been fraudulently obtained.

Second, that heretofore and on or between the third day of October, 1930 and the 27th day of October, 1930, at the aforesaid city of London, England said Harry Wise alias J. Factor alias Guest alias J. Walker received from the Broad Street Press, Ltd. the sum of £131,000 sterling as follows:

On the third day of October, 1930 the sum of £30,000.
On the 14th day of October, 1930 the sum of £10,000.
On the 16th day of October, 1930 the sum of £20,000.
On the 16th day of October, 1930 the sum of £25,000.
On the 17th day of October, 1930 the sum of £40,000.
On the 27th day of October, 1930 the sum of £6,000

knowing the same to have been fraudulently obtained.

Third, that heretofore and on or between the 14th day of June, 1930, and the 30th day of September, 1930, at the aforesaid city of London, England said Harry Wise alias J.
14 Factor alias Guest alias J. Walker received from the Broad Street Press, Ltd. the sum of £242,500 sterling, knowing the same to have been fraudulently obtained;

That at the times and place aforesaid the said Harry Wise alias J. Factor, alias Guest alias J. Walker did, by means of false pretenses obtain the aforesaid sums from the Broad Street Press, Ltd.; thereby committing the crime of obtaining money by means of false pretenses.

Affiant further states that the information upon which this complaint is based is derived from dispatches to him from his Britannic Majesty's Embassy at Washington and from his Britannic Majesty's Consul General at New York City, wherefrom it appears that warrants have been issued for the arrest of said Harry Wise alias J. Factor alias Guest alias J. Walker, and requesting his apprehension.

That the foregoing crimes with which the said Harry Wise alias J. Factor alias Guest alias J. Walker is charged are indictable crimes in the Kingdom of Great Britain, and an offense within the Treaties between the United States and the Kingdom of Great Britain and Ireland;

That said Harry Wise alias J. Factor alias Guest alias J. Walker is a fugitive from the Kingdom of Great Britain and is now within the territory of the United States.

Further affiant sayeth not.

GODFREY HAGGARD
British Consul General.

Subscribed and sworn to before me this 12th day of May, A. D. 1931.

(Signed) EDWIN K. WALKER
United States Commissioner for the Northern District of Illinois, and Commissioner duly authorized by the District Court of the United States for the Northern District of Illinois to act as a Commissioner under the laws of the United States concerning the extradition of fugitives from justice of a foreign government under a treaty or convention between this and any foreign government.

15 EXHIBIT "C".

Before Edwin K. Walker, Esq., United States Commissioner.

In the Matter of the Application for Extradition of Harry Wise Alias J. Factor Alias Guest Alias J. Walker, a Fugitive from Justice Under the Treaty Between the United States and Great Britain.

United States of America
Northern District of Illinois } ss.

GODFREY HAGGARD, his Britannic Majesty's Consul General at Chicago, Illinois, being first duly sworn, upon his oath deposes and says that he is informed and believes and thereupon states:

1. That heretofore and on or between the 14th day of July, 1930, and the 26th day of August, 1930, at the city of London, England, and within the jurisdiction of his Britannic Majesty, one Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from Broad Street Press Limited the sums of £15,000 and £70,000 respectively, knowing the same to have been fraudulently obtained;

2. That heretofore and on or between the 3rd day of October, 1930, and the 27th day of October, 1930, at the aforesaid city of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from Broad Street Press Limited the sum of £131,000 as follows:

On the 3rd day of October, 1930, the sum of £30,000
On the 14th day of October, 1930, the sum of £10,000
On the 16th day of October, 1930, the sum of £20,000
On the 16th day of October, 1930, the sum of £25,000
On the 17th day of October, 1930, the sum of £40,000
On the 27th day of October, 1930, the sum of £ 6,000

knowing the same to have been fraudulently obtained;

3. That heretofore and on or between the 14th day of June, 1930 and the 30th day of September, 1930, at the aforesaid city of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, did receive from Broad Street

Press Limited the sum of £242,500, knowing the same to have been fraudulently obtained;

4. That the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is a fugitive from the justice of England, Kingdom of Great Britain, and is now within the territory of the United States, and a warrant has been issued at London, England, aforesaid, for the apprehension of said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, for the offense herein charged;

5. That the crime with which the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is herein charged is an offense within the Treaties between the United States and Great Britain;

6. That the deponent's information and belief are based upon properly certified copies of the warrant of arrest issued in London and of depositions of witnesses received at the British Consulate General, Chicago, from the Secretary of State for Foreign Affairs in London, England, all of which are ready to be produced at the hearing of this cause.

(Signed) GODFREY HAGGARD
British Consul General.

Subscribed and sworn to before me this 25th day of May, A. D. 1931.

(Signed) EDWIN K. WALKER
United States Commissioner for the Northern District of Illinois, and Commissioner duly authorized by the District Court of the United States for the Northern District of Illinois to act as a Commissioner under the laws of the United States, concerning the extradition of fugitives from justice of a foreign government under a treaty or convention between this and any foreign government.

(United States Commissioner Seal Attached)

17 EXHIBIT "D".

The President of the United States of America, to Any Marshal of the United States, to the Deputies of Such Marshal or Either of Them:

Whereas, a complaint has been made on oath under the Treaty between the United States of America and Great Britain, signed at Washington on the Ninth day of August, One Thousand Eight Hundred and Forty-two, the ratifications whereof were exchanged at London on the Thirteenth day of October, in the same year, and a convention supplementary to the said Treaty between the same high contracting parties, concluded at Washington on the Twelfth day of July, One Thousand Eight Hundred and Eighty-nine, the ratifications whereof were exchanged at London on the Eleventh day of March, One Thousand Eight Hundred and Ninety; and the further convention supplementary to the said Treaty, concluded at Washington on the Thirteenth day of December, One Thousand Nine Hundred, the ratifications whereof were exchanged at Washington on the Twenty-second day of April, One Thousand Nine Hundred and One; and a further convention supplementary to the said Treaty, concluded at London on the Twelfth day of April, One Thousand Nine Hundred and Five, the ratifications whereof were exchanged at Washington on the Twenty-first day of December, One Thousand Nine Hundred and Six, before me, Edwin K. Walker, a Commissioner appointed by the District Court of the United States for the Northern District of Illinois, and also a Commissioner especially appointed and authorized by the District Court of the United States for the Northern District of Illinois to act as a Commissioner under the laws of the United States, concerning the extradition of fugitives from justice of foreign government, under a Treaty or convention between this and any foreign government, for the apprehension and delivery up of certain offenders;

That heretofore and on or between the 14th day of July, 1930, and the 26th day of August, 1930, at the city of
18 London, England, and within the jurisdiction of his Britannic Majesty, one Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from Broad Street Press Limited the sums of Fifteen Thousand Pounds (£15,000) Sterling and Seventy Thousand Pounds (£70,000) Sterling, respectively, knowing the same to have been fraudulently ob-

tained; that heretofore and on or between the 3rd day of October, 1930, and the 27th day of October, 1930, at the aforesaid city of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from the Broad Street Press Limited, the sum of One Hundred and Thirty-one Thousand Pounds (£131,000) Sterling, as follows:

On the 3rd day of October, 1930, the sum of £30,000.
On the 14th day of October, 1930, the sum of £10,000.
On the 16th day of October, 1930, the sum of £20,000.
On the 16th day of October, 1930, the sum of £25,000.
On the 17th day of October, 1930, the sum of £40,000.
On the 27th day of October, 1930, the sum of £6,000.

knowing the same to have been fraudulently obtained; that heretofore and on or between the 14th day of June, 1930, and the 30th day of September, 1930, at the aforesaid city of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from the Broad Street Press Limited, the sum of Two Hundred and Forty-two Thousand Five Hundred Pounds (£242,500) Sterling, knowing the same to have been fraudulently obtained;

That the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is a fugitive from the justice of England, Kingdom of Great Britain, and is now within the territory of the United States, and a warrant has been issued at London, England, aforesaid, for the apprehension of the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, for the offenses herein charged; and that the crime with which the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is herein charged is an offense within the Treaties between the United States and Great Britain.

Now, Therefore, We Command You Forthwith to take said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, and bring him before me, the said Commissioner, at my 19 office in Room ..... Federal Building, city of Chicago, State of Illinois, or before the nearest Justice, Judge or Commissioner in the District in which said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is apprehended, authorized to act in any proceeding for the extradition of fugitives from justice of a foreign government, as provided in Section 5270 of the Revised Statutes of the United States, in order that the evidence of the criminality of the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, may be heard and considered and if deemed sufficient to sustain the charge that the same may be certified, together with a copy

of the proceedings to the Secertary of State, that a warrant may issue pursuant to the Treaties.

Witness my Hand and Official Seal this 25th day of May, A. D. 1931.

(Signed) EDWIN K. WALKER,
United States Commissioner and also a Commissioner especially appointed to execute the provisions of Title LXVI of the Revised Statutes of the United States for giving effect to certain treaty stipulations between this and foreign governments for the apprehension and delivery up of certain offenders.

(United States Commissioner Seal Attached).

20 EXHIBIT "E".

In the Matter of the Application for Extradition of John Factor } Before Commissioner Walker.

Monday, December 28, 1931
12:00 o'clock Noon.

Proceedings resumed pursuant to continuance.

Present:

Mr. Overmyer
Mr. Schwartz
Mr. Peebles
Mr. Stansbury
Mr. Gilbert

The Commissioner: It appears that the representatives of the demanding government in the matter of the extradition proceedings here and the respondent, Mr. Factor, and his counsel, are present. I had set this time for my decision in this case. I want to say just a word about the history of the proceeding before I announce my findings and read my reasons for my findings.

The respondent first came before me on a complaint that was filed by Mr. Godfrey Haggard, British Consul, Chicago, upon which a warrant was issued, and several days thereafter as I recall about eight days thereafter, respondent
21 surrendered himself to the Marshal, and was brought before me. Motion was at once made on behalf of the re-

spondent to enlarge him upon bail, and to dismiss the complaint. That complaint was upon information and belief. An adjournment for some days was had. I then denied the motion then made at that time to admit the respondent to bail, remanded him to the custody of the Marshal, and postponed the hearing of the motion then made. At the time that case came up for hearing again, the demanding government dismissed its complaint on motion and prayed leave to file a new complaint. The complaint was then ready and was sworn to. The defendant was present in court and instantly surrendered to our custody upon this second complaint, which is the complaint in the pending case.

This case has been very extended in its hearing. Ordinarily an extradition proceeding is a simple proceeding and ought not to take long. Hearings are most generally rather formal, and consist mainly in the examination of documentary evidence which has been transmitted, authenticated by proper officers, but the extraordinary and unusual features in this case have caused its prolongment maybe a little bit more than was necessary. As I look back over it, I cannot see that
22 we could have very well done otherwise than we did in the manner of the hearings and the most of the continuances. Three or four weeks, I don't recall just now, but some three weeks I think at least was taken early in the proceeding in order to enable the evidence of the demanding government to be printed into a book form. A great deal of time was taken in the hearing upon the motion to admit the respondent to bail. The evidence of the demanding government was lengthy, and specific objections were in the course of the proceedings made to every item of the evidence. Numerous motions were made. A habeas corpus proceeding was initiated and sued out during the pendency of this case, which habeas corpus proceeding was heard before the District Judge. Motion was made to suspend proceedings here while an appeal from the decision on that habeas corpus was pending. An adjournment was taken at the request of the respondent to bring witnesses from abroad. The arguments have been very lengthy, the authorities cited numerous. The questions, some of them, involved, were of great closeness and nicety. I say this in explanation of the length of the proceedings.

In making my decision here, I have thought it well to express my views in an opinion, which I have transcribed here.
It is a little longer than I would have liked to have had
23 it, but it is difficult to shorten it much, and I shall now read that opinion, which will lead to my conclusions.

There are some motions that have been made of record here that will have to be disposed of which I will do at the close of the reading of this opinion.

An extradition proceeding is not a trial. The Commissioner hearing such a proceeding is not a court in the true sense of that term. Such Commissioner, however, is necessarily vested with special judicial function. Mr. Justice Brown of the United States Supreme Court, in the case of *Grin v. Shine*, 187 U. S., page 181, has said:

"The Commissioner is in fact an agent of the court, possessing independent though subordinate judicial powers of his own."

Having acquired jurisdiction in the manner provided in the statute governing the proceedings, it is provided that

"Evidence of criminality may be heard and considered. If on such hearing he deems the evidence sufficient to sustain the charge under the provisions of the proper treaty or convention, he shall certify the same, together with a copy of
24 all the testimony taken before him, to the Secretary of State."

The treaty involved in this cause provides

"That this shall only be done upon such evidence of criminality as according to the laws of the place where the fugitive or the person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offense had there been committed."

This extradition proceeding is brought under the provisions of the Convention of 1889 commonly known as the Blaine Pauncefote Treaty, in which certain offenses were added to those enumerated in Article 10 of the then existing Treaty of 1842, known as the Webster Ashburton Treaty.

Section 3 of Article I of said Convention of 1889 provides for extradition for "embezzlement; larceny; receiving any money, valuable security, or other property, knowing the same to have been embezzled, stolen, or fraudulently obtained."

This convention also provides as follows:

"Extradition is also to take place for participation in any of the crimes mentioned in this convention or in the aforesaid Tenth Article, provided such participation be punishable by the laws of both countries."

It is therefore incumbent upon the demanding gov-
25 ernment to show the offense charged to be under the provisions of the treaty and also to exhibit such evidence of criminality as according to the laws of the place where the

respondent charged is found would justify his apprehension and commitment for trial if the offense had there been committed. In the instant case, that place is the State of Illinois.

The complaint here charges that the respondent, in London, England, received certain sums from a corporation, known as the Bradstreet Press Limited, knowing the same to have been fraudulently obtained. There is no charge in the complaint of embezzlement or larceny, or receiving money, valuable security, or other property, knowing the same to have been embezzled or stolen. Counsel for the demanding government has contended that there is some evidence tending to prove larceny as bailee or larceny by trick. This is not charged in the complaint, and I now say that I am unable to discover in the record sufficient competent evidence to sustain such finding. I am therefore constrained, in the light of the rules regarding the interpretation of treaties and the testing of the evidence of criminality, to determine this case upon the charge of receiving sums knowing the same to be fraudulently obtained.

The offense charged in the complaint is clearly one
26 enumerated in the treaty. The determination as to whether or not this charge and the evidence of criminality here shown bring this respondent within the treaty by a correct interpretation thereof is not without difficulty.

There is no criminal offense described in the statutes of Illinois in exact correspondence with the offense charged in the complaint. Receiving money, valuable security, or other property knowing the same to have been fraudulently obtained is not in specific language made an offense by the laws of this state.

In the interpretation of treaties in considering extradition proceedings, our courts have laid down principles which I am bound to consider. In the case of *Grin* v. *Shine*, *supra*, opinion by Mr. Justice Brown, the United States Supreme Court has said:

"In the construction and carrying out of such Treaties the ordinary technicalities of criminal proceedings are applicable only to limited extent. Foreign powers are not expected to be versed in the niceties of our criminal laws, and proceedings for surrender are not such as put in issue the life or liberty of the accused. They simply demand of him that he shall do what all good citizens are required and ought to
27 be willing to do, viz: submit themselves to the laws of their country. Care should doubtless be taken that the

Treaty be not made a pretext for collecting private debts, wreaking individual malice, or forcing the surrender of political offenders."

also—

"These Treaties should be faithfully observed and interpreted with the view to fulfill our just obligations to other powers without sacrificing the legal constitutional rights of the accused."

In *Wright* v. *Henkle*, 190 U. S., page 40-61, the Supreme Court says—

"When by the law of Great Britain and by the law of the state in which the fugitive is found, the fraudulent acts charged to have been committed are made criminal, the case comes fairly within the treaty which otherwise would manifestly be inadequate to accomplish its purpose."

In *Tucker* v. *Alexandroff*, 183 U. S. 424, the court says:

"As treaties are solemn engagements entered into between independent nations for the common advancement of their interests and the interests of civilization, and as their main object is not only to avoid war and secure a last-
28 ing and perpetual peace, but to promote a friendly feeling between the people of the two countries, they should be interpreted in the broad and liberal spirit which is calculated to make for the existence of a perpetual amity, so far as it can be done, without the sacrifice of individual rights or those principles of personal liberty which lie at the foundation of our jurisprudence. It is said by Chancellor Kent in his Commentaries, Volume 1, page 174:

"'Treaties of every kind * * * are to receive a fair and liberal interpretation according to the intentions of the contracting parties, and to be kept with the most scrupulous good faith.'"

The evidence of the demanding government was offered with certificate of authentication by the United States Ambassador at London. It consists in addition to certified copies of information, warrants, etc., of the depositions of some sixty-four witnesses together with some two hundred exhibits. Much of this evidence is of such character as to fall short of tests ordinarily applied in a trial. Motion was made by counsel for the respondent to exclude this evidence. This evi-
dence seems to have been certified conformable to the
29 provisions of the statute and I am compelled to receive it. In determining what weight should be given to the evidence, I have striven to conform to tests governing such proceedings.

In *Collins* v. *Loisel*, 259 U. S. 309, it is said, "The phrase 'such evidence of criminality' as used in the treaty, refers to the scope of the evidence or its sufficiency to block out those elements essential to a conviction. It does not refer to the character of specific instruments of evidence, or to the rules governing admissibility. Thus, unsworn statements of absent witnesses, may be acted upon by the committing magistrate, although they could not have been received by him under the law of the state on a preliminary examination."

Much of this evidence I have disregarded. Without specifying in detail, I will say, for illustration, that statements of the four or five witnesses who were alleged victims of the so-called fraud, that "they had investigated and found the stocks purchased to be worthless" should be disregarded, but their testimony as to the facts of the purchase and the inducements thereto should be regarded and given such weight as the circumstances justify.

The testimony discloses that the Broadstreet Press, Ltd., had a brief but remarkable career beginning in 1928 and that in one way or another it continued activities until the fall
30 of 1930. Directors testified that they had no real management or control and that their activities respecting the affairs of the corporation were almost wholly at the direction and dictation of other persons, in some instances the respondent, who did not appear to have been officers.

Cyril Thomas Newman a witness for the demanding government, who had been appointed official receiver of the company, testified at length as to what the records of the company disclosed as to the conduct of its affairs. It appeared that the net receipts of the Broadstreet Press, after its organization in 1928 and to the end of 1928, were in the neighborhood of £29,000; for the year 1929 that total receipts of £83,045 are shown of which £78,000 were loans; that up to the end of February 1930 total receipts of the company were £115,848 of which £108,720 were loans; that in the month of March 1930 receipts were £102,353, no part thereof being through loans; that during the eight months from March to October 1930 receipts were £1,619,726. The bulk of this sum appears to have been received from clients or proceeds of sales of securities received from clients.

It appears that the company was dealing with its clients in listed stocks of certain companies, particularly Edi-
31 son Bell, Swears & Wells, Tri-plex Safety Glass and Guy Motors; that the company advised its clients to purchase

these stocks at certain figures and resell at an advance. For example, it advised the purchase of Edison Bell at 14 shillings a share and the resale of this stock at 23 shillings a share; the purchase of Guy Motors at 15 shillings and resale at 19 shillings; the purchase of Tri-plex Safety Glass at 25 shillings and a little later the sale of 35 shillings; the sale of Swears & Wells at 21 shillings.

It is disclosed from the deposition of Newman that the company had bought 211,669 shares of Edison Bell at 23 shillings or £241,149, which their clients had bought at 14 shillings; that they sold 60,729 shares of Guy Motors at 15 shillings or £45,849 and repurchased 59,610 shares at 19 shillings or £56,627; that they sold 127,843 shares of Swears & Wells at £94,162 of which they had repurchased 114,347 shares at £118,767; that they had sold 62,778 shares of Tri-plex Glass at 25 shillings and repurchased 58,321 shares at 35 shillings; these transactions showing profits to the clients and losses to the company a follows: Edison Bell £73,633, Guy Motors £10,732, Swears & Wells £24,605, and Tri-plex Safety Glass £20,064. It is claimed that these transactions were carried on as a lure to facilitate subsequent sale of worthless stock.

32 The evidence discloses that these clients were advised to reinvest in Asbestos & Holding Trust, Ltd., Rhodesia Border Mining Corporation, Ltd., and Vulcan Copper Mines, Ltd., which stocks the demanding government contends were worthless stocks.

It appears that circulars marked private and confidential, were sent out by the Broad Street Press, Ltd., to promote the sale of these several stocks. As to the Asbestos & Holding Trust, Ltd., the circular recited that this stock was offered by the company as principal. As to the stock of the other two companies, nothing was said on that point. It appears the company had acquired the Asbestos & Holding Trust, Ltd., stock for £52,500 and sold the same for £297,405; that the company sold the Rhodesia Border Mining shares for £623,790 for which it appears they had paid the sum of £33,000. It appears similar purchases and resales at great profit were made of the Vulcan Copper Mines, Ltd. stock.

A director Osborne deposed that respondent known to him as J. Walker, had been introduced to him and that he, Walker, had informed him that he was about to publish a financial paper and asked him to become a director. A financial paper was published by the Broad Street Press carrying the name of Osborne as editor although Osborne testified

that he had nothing to do with the editing of said paper. Later the name of the paper was changed, the name of Os-
33 borne dropped and the name of Norman D. Spencer substituted as editor. The name of Norman D. Spencer, editor, appeared upon several letters sent to clients, with the name of Broad Street Press as proprietors. Some of these letters contained advice to the effect that Mr. Spencer had unique source of inside information. Letters were sent to clients purporting to have been signed by Norman D. Spencer advising purchase of stocks in question. There is no evidence in the record as to the identity of Norman D. Spencer and so far as the record appears, no one seems to have known him. One witness, however, an employee of the Broad Street Press, deposed that she was instructed when any inquiries came for Mr. Spencer to refer them to the room at the office of the Broad Street Press which was occupied by the respondent and one Klein.

The evidence discloses that from the 13th day of June 1930 to the 27th day of October 1930, payment by check were made to the respondent under the name of H. Wise, amounting to £709,180. On the 27th day of October 1930, it appears that a meeting of the officers of the company was held to discuss voluntary liquidation. At that time it appears that there was a balance of £6569 to the credit of the company in Bank. £6000 on that day was paid to the respondent under the name of H. Wise leaving a balance of £659.

34. The nature of the evidence and testimony of the demanding government was such that the door was opened for explanatory testimony on behalf of the respondent. No testimony was offered by the respondent respecting the transactions of the Broad Street Press, Ltd., and the receiving therefrom of the moneys charged to have been obtained by him.

The respondent produced two witnesses. One an assayor who testified respecting certain samples of ores that had been submitted to him, claimed to have been taken from the mining properties and a witness one, Major Harry Brian Pearson, a mining expert who testified at great length respecting his examination of the properties alleged to be owned by the said mining companies. While this testimony disclosed the indication of the presence of ore in the properties, it appears that none of them are in any sense working mines or that ore bodies of any great extent have been uncovered and blocked out. The prospects appear to be only prospects. It may be there are very good prospects but the

extent of the ore bodies, the costs of developments and carrying on mining operations were but estimates and estimates only. It appears that while Major Pearson was making these investigations in Africa, the scheme for the sale of the stock of the companies was then well under way in London.

Numerous exhibits were offered in evidence by the respondent, consisting of maps, plats and reports respecting the
35 properties. What purported to be copies of contracts for the purchase of rights to these properties, were also offered in evidence by the respondent. I am unable to determine from these whether or not there was any vested property rights in the companies as to these so called mining properties or claims.

Considering the evidence produced at the hearing, I am of the opinion that the Broad Street Press, Ltd., was engaged in the carrying on of a fraudulent scheme respecting the sale of the stocks in question.

Testimony was offered by the respondent of certain witnesses learned in the law upon the question of whether or no "receiving money knowing the same to have been fraudulently obtained" is an offense in Illinois. One of these witnesses was formerly a Justice of the Supreme Court of Illinois; One was a Judge of the Circuit Court of Cook County; and one a Judge of the Superior Court of Cook County, both of whom have had quite an extended experience as Judges of the Criminal Court of Cook County, a court of general criminal jurisdiction. Two other witnesses on these points were both men of long experience as Assistant State's Attorneys in this county.

It is unusual to receive evidence of the law as a matter of fact, except where it is sought to prove the law of a foreign jurisdiction. Explanation of why this evidence was received may be timely here. It was contended that in my capacity as United States Commissioner, I am not to take judi-
36 cial notice of the laws of Illinois. I do not wish it understood that I agree with this contention. I did, however, in consideration of certain authorities that were cited, receive this testimony in exercise of the right of discretion in that regard.

These witnesses testified to the effect that "receiving money known to have been fraudulently obtained" is not an offense in Illinois. However, it seems that the District Court of the Northern District of Illinois and the United States Supreme Court has considered and passed upon that question.

This brings us to the consideration of the case of *Kelly* v.

Griffin, 241 U. S. page 6. In that case the respondent Kelly was held for extradition to Canada under the same treaty here involved, by a United States Commissioner of this district. The respondent was there charged with perjury, obtaining money by false pretenses, and receiving moneys knowing the same to have been fraudulently obtained. This case was taken by habeas corpus to our United States District Court here, and ultimately to the United States Supreme Court.

I have made a very exhaustive examination in this case. I have examined the briefs of the appellant and of the demanding government, and carefully considered the opinions of the District Judge Kenesaw M. Landis and of Justice Holmes in the Supreme Court. District Judge Landis said:

"There is a dearth of authority, as far as the argument
before me was concerned, and as far as my independent
37 examination of it is concerned, on this particular clause.

But in the State of Illinois there is a statute which makes it an offense for a man to receive money which is embezzled by another man. There is a statute which in my opinion makes it an offense for a man to receive money that has been fraudulently obtained to his knowledge by another person from somebody else. 'Every person who shall be a party to any fraudulent conveyance of any lands, tenements or hereditaments, goods or chattels, or any right or interest issuing out of the same, or to any bond, suit, judgment or execution, contract or conveyance, had, made or contrived with intent to deceive and defraud others, or to defeat, hinder or delay creditors or others of their just debts,' etc., 'or who being a party as aforesaid at any time shall wittingly or willingly put in use, avow,' etc., 'or defend the same or any of them as true, and done, had or made in good faith or upon good consideration, or shall sell or assign, shall be fined $1,000.' That is the only statute I find in Illinois, strange enough, that meets the situation here."

He further says in his opinion:

"The good faith that must characterize the treatment of a demand by one Government on another Government for the surrender of a fugitive charged with an extraditable offense
would not permit the United States, on the showing of
38 fact made here, if there was no charge of perjury and
no charge of obtaining money by false pretenses, to refuse to give up Kelly on that charge, in my opinion, even though Kelly himself was a party to the fraud, the object and

purpose and result of which was separating the Canadian Government from its money."

The writ of habeas corpus was denied. This case was carried to the United States Supreme Court and affirmed. In the opinion by Mr. Justice Holmes it is said:

"It may be assumed that there is no evidence of larceny or embezzlement as (commonly) defined, but the receiving of property known to have been fraudulently obtained is a crime by the laws of both Canada and Illinois. There may be a doubt whether the appellant, if a party to the fraud, received the money of the Government directly from it, or through a third hand so as to be guilty under this count of the complaint. We are not prepared to pronounce his detention upon the count unjustifiable in view of the finding."

It, therefore, seems clear that the question as to whether or no an extradition can be had under the treaty and upon this charge, has been determined by the District Court of this District, and by the United States Supreme Court.

During these proceedings this respondent applied for writ of habeas corpus to our District Court, raising this ques-
39 tion. District Judge Fitzhenry in his opinion said:

"The court feels that the expression of Mr. Justice Holmes is conclusive upon this court. The question has heretofore been passed upon by the Supreme Court of the United States, and it is not for this court to presume to reverse the Supreme Court of the United States. If that holding is to be changed, it is to be changed by the Supreme Court of the United States itself."

I concur with Judge Landis that no other statute in Illinois makes the act of receiving moneys which are the proceeds of a fraud an offense. I cannot assume that the Supreme Court had any other statute in mind. I am bound by its ruling.

It has been most earnestly contended by the respondent that this case does not correctly state the law of Illinois and that the Illinois statute referred to, does not properly bring the acts therein made an offense, within the purview of the treaty. This statute is substantially declaratory of the common law of England and is practically identical with the statute of 13th Elizabeth, Chapter 5. The common law of England, prior to fourth year of James II, except where changed by statute, is the law in Illinois. (Chapter 28, Revised Statute of Illinois) It may well be said that whether or no the acts made an offense in said statute come within the purview of the treaty, is a question of great nicety and

closeness. It may be well regarded as one which ought to have further judicial interpretation by the courts of ul-
40 timate review.

This opinion indicates my views on the evidence and the questions of law, so that I am constrained to find that the demanding government have complied with the statute, and hold the defendant for extradition upon the proper order. Finding and order to that effect I will now enter of record—

Mr. Gilbert: If your Honor please, may I interrupt?

The Commissioner: However, I will now indicate the rulings upon the pending motions. The motion to strike all of the evidence, exclude all of the evidence, is overruled. Motion to dismiss at the close of the demanding government's case is overruled. I think those are the only motions that were made and that are undisposed of.

48 And afterwards, to wit, on the 12th day of January 1932, being one of the days of the regular December term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward District Judge, appears the following entry, to wit: Entered 193

49 • • (Caption) • •

ORDER WRIT OF HABEAS CORPUS ISSUE.

This cause coming on to be heard upon the motion of Levinson, Becker, Glenn & Schwartz, David D. Sfansbury, and Rush C. Butler, counsel for the relator, John Factor, in the above entitled cause and on the petition of the said John Factor that a writ of habeas corpus issue, and the court having read and considered said petition, and having heard the arguments and statements of counsel, Doth Find

That it has jurisdiction on the subject matter of said petition and that the petition shows grounds for the issuance of a writ of habeas corpus in consequences whereof said motion should be allowed.

It Is Therefore Ordered that a writ of habeas corpus issue returnable on the 15th day of January, A. D. 1932.

Enter:

CHARLES E. WOODWARD,
United States District Judge.

Dated
Jan. 12, 1932.

12. 53 And on, to wit, the 12th day of January 1932 there was filed in the Clerk's office of said Court a certain Writ of Habeas Corpus in words and figures following, to wit:

54 District Court of the United States of America,
Northern District of Illinois,
Eastern Division. } ss.

The United States of America to H. C. W. Laubenheimer United States Marshal Northern District of Illinois, Eastern Division, and each and all of his Deputies, Greeting:

You are hereby commanded to have the body of John Factor by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name said John Factor shall be called or charged, before our Judges of the District Court of the United States for the Northern District of Illinois, Seventh Judicial Circuit, now sitting in the Court Rooms of our said District Court, Federal Building, in the City of Chicago, in said District, on the 15th day of January, A. D. 1932, to be dealt with according to law; and have you then and there this writ, with a return thereon of your doings in the premises.

To the Marshal of the Northern District of Illinois to execute.

Witness, the Hon. Charles E. Woodward Judge of said Court, at Chicago, aforesaid; this 12th day of January, in the year of our Lord one thousand nine hundred and 32 and of our Independence the 156th.

CHARLES M. BATES,
Clerk.

(Seal)

Served this writ on the within named H. C. W. Laubenheimer, U. S. Marshal by reading the same to him and by leaving a copy hereof with him this 12th day of January A. D. 1932.

CHARLES M. BATES,
By JOSEPH A. MUIR,
Deputy.

58 And on, to wit, the 15th day of January 1932 came the H. C. W. Laubenheimer by his attorney and filed in the Clerk's office of said Court a certain Return to Writ of Habeas Corpus in words and figures following, to wit:

59 * * (Caption) * *

To the Honorable Charles E. Woodward, Judge of said Court.

I, Henry C. W. Laubenheimer, United States Marshal for the Northern District of Illinois, Eastern Division, to whom a writ of habeas corpus heretofore issued in the above case, a copy of which is hereto annexed, marked Exhibit "A" and made a part hereof, have now before the court the body of the person therein named, and I hereby certify and return that he, the said John Factor, is in my custody as said United States Marshal, since, to wit, the 12th day of January, A. D. 1932, under and by virtue of the Commissioner's Commitment, a copy of which is hereto annexed, marked Exhibit "B" and made a part hereof, the original of which Commissioner's commitment is in my possession ready to be produced and exhibited in court on demand.

Henry C. W. Laubenheimer,
HENRY C. W. LAUBENHEIMER,
United States Marshal for the Northern District of Illinois, Eastern Division.

George E. Q. Johnson,
GEORGE E. Q. JOHNSON,
United States Attorney.
Franklin R. Overmeyer,
FRANKLIN R. OVERMEYER,
Attorney for the Kingdom of Great Britain, the demanding Government, and as such of counsel for the United States Marshal, Respondent herein.

60 EXHIBIT "A."

Before Edwin K. Walker, Esq., United States Commissioner for the Northern District of Illinois, Eastern Division.

In the Matter of the Application for Extradition of Harry Wise, alias J. Factor, alias Guest, alias J. Walker, a fugitive from Justice under the Treaty between the United States and Great Britain. } (No. 8207-A).

United States of America, Northern District of Illinois, Eastern Division. } ss.

The President of the United States of America to the Marshal of the Northern District of Illinois, and to his Deputies, or to any or either of them, and to the keeper of the common jail of the County of DeKalb, at Sycamore, in the State of Illinois, Greeting:

Whereas, the above named Harry Wise, alias J. Factor, alias Guest, alias J. Walker, has been arrested on the oath of Godfrey Haggard, his Britannic Majesty's Counsel General, at Chicago, Illinois United States of America, for having on or about between the 14th day of July, 1930, and the 26th day of August, 1930, at the City of London, England, and within the jurisdiction of his Britannic Majesty, committed the crime of receiving money, knowing the same to have been fraudulently obtained; that on or between the 3rd day of October, 1930, and the 27th day of October, 1930, at the aforesaid City of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received money, knowing the same to have been fraudulently obtained; that on or between the 14th day of June, 1930, and the 30th day of September, 1930 at the aforesaid city of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received money, knowing the same to have been fraudulently obtained; in each instance from Broad Street Press; and

Whereas, the crime with which the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is herein charged is an offense within the Treaties between the United States and Great Britain; and

Whereas, on examination of the charges against said Harry

Wise, alias J. Factor, alias Guest, alias J. Walker, has been had before me, Edwin K. Walker, United States Commissioner for the Northern District of Illinois, Eastern Division, specially authorized by order of the District Court to perform all the duties of a Commissioner under the Extradition Laws and Treaties of the United States, and it appearing to me, the said Commissioner, that there is probable cause to believe said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, committed the crime charged, and it is Hereby So Found and Adjudged.

And Therefore, in the name and by the authority aforesaid, these are to command you, the Marshal, as aforesaid, to commit the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, to the custody of the Keeper of said Common Jail in Sycamore, Dekalb County, Illinois, and to leave with the Keeper of said Common Jail a certified copy of
61 this writ, and to command you, the Keeper of said Jail, to receive and keep the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, to abide the order of the Secretary of State of the United States.

Witness my hand and seal this 12th day of January, A. D. 1932.

(Signed) EDWIN K. WALKER,
United States Commissioner for the Northern District of Illinois, and a Commissioner duly authorized by the District Court of the United States for the Northern District of Illinois, to act as a Commissioner under the laws of the United States concerning the extradition of fugitives from justice of a Foreign Government under treaty or convention between this and any foreign Government.

62 EXHIBIT "B."

District Court of the United States of America,
Northern District of Illinois,
Eastern Division. } ss.

The United States of America to H. C. W. Laubenheimer, United States Marshal, Northern District of Illinois, Eastern Division, and to each and all of his Deputies, Greeting:

You are hereby commanded to have the body of John Factor by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name said John Factor shall be called or charged, before our Judges of the District Court of the United States for the Northern District of Illinois, Seventh Judicial Circuit, now sitting in the Court Rooms of our said District Court, Federal Building, in the City of Chicago, in said District, on the 15th day of January, A. D. 1932 to be dealt with according to law; and have you then and there this writ, with a return thereon of your doings in the premises.

To the Marshal of the Northern District of Illinois to execute.

Witness, the Hon. Charles E. Woodward Judge of said Court, at Chicago, aforesaid, this 12th day of January, in the year of our Lord one thousand nine hundred and 32 and of our Independence the 156th.

CHARLES M. BATES,
(Seal) *Clerk.*

65 And afterwards, to wit, on the 15th day of January 1932, being one of the days of the regular December term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward District Judge, appears the following entry, to wit:

66 * * (Caption) * * Entered 1932.

Friday, January 15, 1932.

Present Honorable Charles E. Woodward, Judge of said Court.

It Is Ordered by the Court that the hearing on the writ of habeas corpus and the return thereto be and the same is hereby continued and set for hearing January 30, A. D. 1932 before Judge George A. Carpenter.

41 And on, to wit, the 12th day of January, 1932 came the Petitioner by his attorneys and filed in the Clerk's office of said Court a certain Petition for Writ of Certiorari in words and figures following, to wit: Filed J 1932.

42 * * (Caption) * *

PETITION FOR WRIT OF CERTIORARI.

To the Honorable, United States District Court for the Northern District of Illinois, Eastern Division:

Your petitioner, John Factor, respectfully represents and shows unto the Court here:

First: That on the 12th day of January, A. D. 1932, he filed his petition in this Court wherein it is prayed that a writ of habeas corpus issue to relieve him of his unlawful restraint and detention occasioned by the issuance of a mittimus by one, Edwin K. Walker, United States Commissioner, by the pretended virtue of which said mittimus your petitioner now is in the custody of H. C. W. Laubenheimer, United States Marshal for the Northern District of Illinois, Eastern Division.

Second: That said mittimus was issued in a proceeding begun by Godfrey Haggard, Consul General of the Kingdom of Great Britain, to extradite from the Northern
43 District of Illinois, Eastern Division in the United States of America your petitioner to the Kingdom of Great Britain, there to be tried for the pretended offense attempted to be described in the complaint of the said Godfrey Haggard filed on the 25th day of May, A. D. 1931, in the office of

the said Edwin K. Walker, United States Commissioner for the Northern District of Illinois, Eastern Division.

Third: That thereafter there was presented to the said Edwin K. Walker, as United States Commissioner, certain depositions and documents called Exhibits in support of the said complaint of the said Godfrey Haggard, and there was likewise offered to the said Edwin K. Walker, certain verbal testimony of certain witnesses and exhibits in support thereof, in opposition to the application of the said Godfrey Haggard to extradite your petitioner from the Northern District of Illinois, Eastern Division, to the Kingdom of Great Britain.

Fourth: Your petitioner is advised that the said Edwin K. Walker was in error in issuing the mittimus aforesaid but should have directed that your petitioner be discharged from the custody of the said H. C. W. Laubenheimer, United States Marshal as aforesaid.

In Consequence Whereof, your petitioner prays that a writ of certiorari may forthwith issue directed to the said Edwin K. Walker, United States Commissioner for the Northern District of Illinois, Eastern Division, directing him to certify to this Court all of the complaints, warrants, pleadings, motions, mittimi, depositions, testimony, exhibits and certificates filed, issued, made, had, and taken in the aforesaid
44 proceedings which took place before him, and all the evidence that was offered before him in the said proceedings which resulted in the issuance of the aforesaid mittimus, and that this Court may proceed to determine the facts in this cause in that regard and the legality of your petitioner's imprisonment, restraint and detention, and thereupon to dispose of your petitioner as law and justice may require.

John Factor,
JOHN FACTOR,
Petitioner.

45 United States of America,
Northern District of Illinois,
Eastern Division. } ss.

State of Illinois }
County of Cook } ss.

JOHN FACTOR, being first duly sworn on oath, deposes and says, that he is the petitioner above named, has read the foregoing petition and knows the contents thereof; that the

foregoing petition, and each and all of the representations and averments therein contained are true to his own personal knowledge; and that no previous application for a writ of certiorari has been made.

JOHN FACTOR.

Subscribed and sworn to before me this 12th day of January, A. D. 1932.

G. GALE GILBERT, JR.,
Notary Public.

(Seal)

RUSH C. BUTLER,
LEVINSON, BECKER, GLENN & SCHWARTZ,
DAVID D. STANSBURY,
Counsel for Petitioner.

46 And on, to wit, the 12th day of January 1932 came the Petitioner by his attorneys and filed in the Clerk's office of said Court a certain Motion for Writ of Certiorari in words and figures following, to wit: Filed 1932

47 * * (Caption) * *

MOTION FOR WRIT OF CERTIORARI.

Now comes John Factor, petitioner, by Levinson, Becker, Glenn & Schwartz, David D. Stansbury, and Rush C. Butler, his counsel, and moves the Court to issue its writ of certiorari directed to Edwin K. Walker, United States Commissioner, and in support of said motion exhibits unto the Court here the verified petition of your petitioner for a writ of certiorari.

JOHN FACTOR,
Petitioner.

By RUSH C. BUTLER,
LEVINSON, BECKER, GLENN & SCHWARTZ,
DAVID D. STANSBURY,
Counsel for Petitioner.

50 And afterwards, to wit, on the 12th day of January 1932, being one of the days of the regular December term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward District Judge, appears the following entry, to wit:

an. 12, 51 * * * (Caption) * * *

ORDER THAT A WRIT OF CERTIORARI ISSUE.

This cause coming on to be heard upon the motion of the petitioner, John Factor, by Levinson, Becker, Glenn & Schwartz, David D. Stansbury and Rush C. Butler, his counsel, which motion is supported by the verified petition of your petitioner that a writ of certiorari issue as prayed directed to Edwin K. Walker, United States Commissioner, and the court having read the said petition for a writ of certiorari, and having heard the arguments and statements of counsel, and being fully advised in the premises Doth Find

That it has jurisdiction of the subject matter of said petition and of the parties affected thereby and that properly to determine the questions presented by the petition for habeas corpus heretofore filed in this cause, the record and proceedings had and taken before the said Edwin K. Walker, as United States Commissioner, should be before the Court here, in consequence whereof, said motion should be allowed

It Is Therefore Ordered That Edwin K. Walker, as United States Commissioner, shall, and he hereby is commanded, to certify and send to the United States District Court for the Northern District of Illinois, Eastern Division within three days from the date hereof, your proceedings concerning the matters described in, and those to which reference is made in the said petition for writ of certiorari concerning the application for the extradition of John Factor from the Northern District of Illinois, Eastern Division
52 in the United States of America to England in the Kingdom of Great Britain, together with all of the complaints, warrants, pleadings, motions filed, issued, made, had and taken as fully and entirely as it remains before you, together with this writ, that this court may cause to be done what of right ought to be done in the premises.

Enter:

CHARLES E. WOODWARD,
United States District Judge.

Dated
Jan. 12, 1932.

55 And on, to wit, the 1st day of March 1932 there was filed in the Clerk's office of said Court a certain Writ of Certiorari in words and figures following, to wit:

56 * * (Caption) * * * Issued 1932

WRIT OF CERTIORARI.

The President of the United States to Edwin K. Walker, United States Commissioner for the Northern District of Illinois, Greeting:

For sufficient reasons shown by the petition of John Factor, sworn to on the 12th day of January, 1932, you are hereby commanded to certify and send to the District Court of the United States in and for the Northern District of Illinois, on the 15th day of January, 1932, at ten o'clock in the morning of that day, or as soon thereafter as counsel can be heard, your proceedings concerning the matters described in, and those to which reference is made in said petition and concerning the application for the extradition of John Factor, together with all of the testimony and other evidence offered and received before you with all things touching the same and the evidence, both oral and documentary, offered and received before you therein, as fully and as entirely as it remains before you, by whatsoever names the parties may be called in said proceedings, and all motions made in writing in said extradition proceeding, together with this writ, that said court may cause to be done what of right ought to be done in the premises.

Witness, the Honorable Charles E. Woodward, Judge of the District Court of the United States, this 12th day of January, A. D. 1932.

(Seal)

CHARLES M. BATES,
Clerk of the United States District Court for the Northern District of Illinois, Eastern Division.

57 Served this writ on the within named Edwin K. Walker by reading the same to him and by leaving a copy thereof with him in person this 12th day of January, A. D. 1932.

H. C. W. LAUBENHEIMER,
U. S. Marshal,
By JAMES C. MCLAUGHLIN,
Deputy.

Marshal's Fees
1 service $2.00
..... miles .....
Total

20. 63 And on, to wit, the 20th day of January 1932 came the U. S. Commissioner and filed in the Clerk's office of said Court a certain Return to Writ of Certiorari, attached to which was a complete record of the proceedings had before him, in words and figures following, to wit:

(See stipulation attached to Bill of Exceptions as to use of printed copy of said Record in lieu of original Return to Writ of Certiorari).

64 * * * (Caption) * *

RETURN TO WRIT OF CERTIORARI.

United States of America,
Northern District of Illinois,
Eastern Division. } ss.

I, Edwin K. Walker, United States Commissioner for the Northern District of Illinois, Eastern Division, and a commissioner duly authorized and especially appointed to act in extradition cases, in obedience to the writ of certiorari issued by the United States District Court for the Northern District of Illinois, Eastern Division, do hereby certify that the papers and documents hereto annexed, together with the exhibits referred to therein and returned herewith, constitute the original record of the proceedings, depositions, testimony and evidence had and taken before me in the above entitled matter.

Given Under My Hand and Official Seal at Chicago, Illinois, this 14th day of January, A. D. 1932.

EDWIN K. WALKER,
United States Commissioner for the Northern District of Illinois, Eastern Division.

(Seal)

67 And on, to wit, the 20th day of January 1932 came the Petitioner by his attorneys and filed in the Clerk's office of said Court a certain Answer to the Return of the Writ of Habeas Corpus in words and figures following, to wit:

68 (Caption) Filed 193

ANSWER TO THE RETURN OF THE WRIT OF HABEAS CORPUS.

Comes now, John Factor, the petitioner in the above entitled cause, by his counsel, and files this, his traverse to the return of the writ of habeas corpus heretofore filed herein and for answer thereto says:

First: That the Commissioner's commitment referred to in the said return, made a part thereof and marked Exhibit "B," is wholly void and of no legal and binding effect because, your petitioner says, that said Commissioner's commitment is without any warrant in law.

Second: That the aforesaid Commissioner's commitment is wholly void because, your petitioner says, that there was no evidence offered to the Commissioner and received by him upon which such Commissioner's commitment could be founded as a matter of law.

69 Third: That the aforesaid Commissioner's commitment is wholly void because, your petitioner says, it is not founded upon any evidence of a violation of any statute of the United Kingdom of Great Britain committed or attempted to be committed by your petitioner.

Fourth: That the aforesaid Commissioner's commitment is wholly void because, your petitioner says, the offense attempted to be described in said Commissioner's commitment is not an offense against any law or statute of the United States of America.

Fifth: That the aforesaid Commissioner's commitment is wholly void because, your petitioner says, the offense attempted to be described in said Commissioner's commitment is not an offense against any law or statute of the State of Illinois.

Wherefore, your petitioner prays that the writ of habeas corpus heretofore filed herein may be made final and absolute and that your Petitioner be discharged from custody and go hence without day.

JOHN FACTOR,
Petitioner.

By LEVINSON, BECKER, GLENN & SCHWARTZ,
RUSH C. BUTLER,
DAVID D. STANSBURY,
Counsel for Petitioner.

Dated: January 20, 1932.

an. 20, 70 And afterwards, to wit, on the 20th day of January 1932, being one of the days of the regular December term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable George A. Carpenter District Judge, appears the following entry, to wit:

71 * * (Caption) * *

Wednesday, January 20, 1932.

Present: Honorable George A. Carpenter, Judge of said Court.

This day comes the respondent and brings into open court the body of the relator, John M. Factor, and makes due return of the writ of habeas corpus issued in said cause showing the caption and detention of the said relator and the court having heard the arguments of counsel said cause is taken under advisement.

11. 72 And on, to wit, the 11th day of February 1932 came the Godfrey Haggard by his attorney and filed in the Clerk's office of said Court a certain Intervening Petition in words and figures following, to wit:

73 * * (Caption) * *

INTERVENING PETITION OF GODFREY HAGGARD, BRITISH CONSUL GENERAL, FOR LEAVE TO BECOME A RESPONDENT HEREIN AND FILE AN ANSWER.

To the Honorable George A. Carpenter, United States District Judge:

Your petitioner, Godfrey Haggard, his Britannic Majesty's Consul General at Chicago, Illinois, represents unto the Court that he is the duly constituted representative of the Kingdom of Great Britain, in the district of which Illinois is a part, and as such representative filed a complaint on to-wit May 25th, 1931, before the Honorable Edwin K. Walker, United States Commissioner, for the arrest of Harry Wise, alias J. Factor, alias Guest, alias J. Walker, the relator here-

in, under the treaty between the United States and Great Britain, for the extradition of fugitives from justice.

Your petitioner further represents that after hearing the said United States Commissioner committed the relator to jail to await the issuance of a warrant of surrender by the Secretary of State of the United States, and said relator has now filed his petition in the above cause, praying for his discharge from said commitment, and has made the United States marshal, his keeper, the respondent in said petition.

Your petitioner further avers that in the commitment entered by the said Commissioner the said Marshal, respondent, is directed to commit the relator to the custody of the common jail in Sycamore, De Kalb County, Illinois.

74 Your petitioner further avers that he is the real party in interest as representative of the Kingdom of Great Britain, the government demanding the extradition of the relator, and your petitioner therefore prays that he may be made a respondent in this proceeding, with leave to file instanter an answer to the petition for a writ of habeas corpus filed as aforesaid by the relator.

Dated at Chicago, Illinois, this 20th day of January, A. D. 1932.

GODFREY HAGGARD,
His Britannic Majesty's Consul General.

State of Illinois, } ss.
County of Cook. }

GODFREY HAGGARD, being first duly sworn on oath, deposes and says that the above and foregoing petition signed by him is true and correct according to his best information and belief.

GODFREY HAGGARD,

Subscribed and sworn to before me this 20th day of January, A. D. 1932.

WENDELL H. NEY,
Notary Public.

75 And afterwards, to wit, on the 11th day of February 1932, being one of the days of the regular February term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable George A. Carpenter District Judge, appears the following entry, to wit:

eb. 11, 76 • • (Caption) • •

Thursday, February 11, 1932.

Present Honorable George A. Carpenter, Judge of said Court.

On motion of Godfrey Haggard, British Consul General It Is Ordered that leave be and the same is hereby given Godfrey Haggard to intervene and file answer to the petition for the writ of habeas corpus and on motion of solicitor for the relator It Is Ordered that the relator's answer to the return of the writ of habeas corpus stand as answer to the answer of the intervenor Godfrey Haggard British Counsel General.

11. 77 And on, to wit, the 11th day of February 1932 came the Intervening Petitioner by his attorney and filed in the Clerk's office of said Court a certain Answer in words and figures following, to wit:

78 • • (Caption) • •

ANSWER OF GODFREY HAGGARD, BRITISH CONSUL GENERAL, ONE OF THE RESPONDENTS.

And now comes Godfrey Haggard, his Britannic Majesty's Consul General at Chicago, Illinois, by Franklin R. Overmeyer and John G. Drennan, his attorneys, pursuant to leave of Court first had and obtained, and for the answer to the petition for writ of habeas corpus says:

This respondent admits that the relator is held in the custody of the United States Marshal for this district under and by virtue of a mittimus, as alleged in the relator's petition, to which is attached a copy of the said mittimus.

This respondent admits that the mittimus was issued by the United States Commissioner, Edwin K. Walker, in a certain extradition proceeding instituted by this respondent, and that the complaints and warrants were filed and issued all as alleged in the relator's petition.

This respondent further says, in answer to the 7th paragraph of relator's petition, that the United States Commissioner, Edwin K. Walker, has found that there is cause to

believe that the relator committed the crimes charged in the second complaint.

This respondent denies that the second complaint does not charge an extraditable offense and denies that the mittimus is null and void.

79 This respondent, in answer to the 9th paragraph of relator's petition, denies that the offence with which the accused is charged must also be made criminal under the laws of Illinois.

This respondent, in answer to the 10th paragraph of relator's petition, denies that "receiving money knowing the same to have been fraudulently obtained" is not made criminal under the laws of the United States and of the State of Illinois, but, on the contrary, respectfully submits to the Court that the aforesaid question has been adjudicated by the Supreme Court of the United States in the case of *Kelly v. Griffin*, 241 U. S., page 6, sustaining the action of the District Court and a United States Commissioner, holding that the United States government is obligated, under the treaties in question, to extradite from Illinois for this particular crime, all of which will more fully appear from the decisions of the aforesaid courts, and this respondent further avers that the said Harry Wise, alias Factor, alias Guest, alias Walker, while the proceedings were pending before United States Commissioner Walker, filed a petition for writ of habeas corpus in the District Court of the United States for the Northern District of Illinois, Eastern Division, entitled "The United States of America, Ex Rel John Factor, vs. H. C. W. Laubenheimer, United States Marshal for the Northern District of Illinois," being case No. 39775, in which petition is incorporated the identical language employed in paragraphs numbered first to twelfth, both inclusive, appearing in the present petition by the relator, the substance being that the demanding government has not charged an extraditable offence, because it is averred that there is no offence in Illinois known as "receiving money knowing the same to have been fraudulently obtained."

This respondent further represents that a motion was made to strike the petition in the aforesaid Case No. 39775 on

80 ground that the question aforesaid had been passed upon by the Supreme Court in the case of Kelly vs. Griffin, and that the offence of "receiving money knowing it to have been fraudulently obtained" was an extraditable offense from Illinois, which motion was sustained and the petition stricken,

and thereupon a motion was made to enlarge the relator on bail, which was denied, and thereupon a motion was made to stay the proceedings then pending before the Commissioner during the period of an appeal, which was deniod, and thereupon the relator prayed an appeal to the United States Circuit Court of Appeals for the Seventh District, which was perfected, being Case No. 4640, and thereafter the relator, by his counsel, dismissed said appeal on their own motion.

This respondent avers that all of the aforesaid facts are matters of record in this United States District Court, and in the said United States Circuit Court of Appeals.

This respondent further represents that in the Circuit Court of Appeals, in the aforesaid case of the relator, Factor, the United States government, acting through the District Attorney for this district, filed suggestions recognizing the obligation of the United States to extradite from Illinois for the offense of "receiving money knowing it to have been fraudulently obtained" and further directed the attention of the Court to the fact that the questions of fact in support of said charge had been passed upon by the Secretary of State of the United States.

This respondent attaches hereto a copy of the oral opinion delivered by the Honorable Louis FitzHenry when the motion to strike the aforesaid petition of relator was sustained.

This respondent further submits to this Honorable Court that the facts involved in this proceeding have heretofore been passed upon in an extradition proceeding instituted in the State of New York, when one Arthur Klein, alleged

81 to be a confederate of the relator, Factor, was held by United States Commissioner Cotter; that said Klein thereupon filed a petition for writ of habeas corpus, in the United States District Court, Southern District of New York, where the matter was heard and decided by District Judge Knox, whose opinion appears in ..... Fed. .....; that an appeal was taken by the said Klein to the United States Circuit Court of Appeals, which affirmed the District Court, the opinion of the Circuit Court of Appeals appearing in ..... Fed. .....; that thereupon a petition for writ of certiorari was filed in the Supreme Court of the United States and the same was denied; and that the Secretary of State of the United States reviewed the record in said proceedings and issued a warrant of surrender to Great Britain under which said Klein was taken from this country for trial in Great Britain.

This respondent further represents that in and by the aforesaid proceedings the courts of the United States and the government of the United States have found that there is probable cause to believe that the Broad Street Press fraudulently obtained the money which was thereafter turned over to and received by Factor and Klein, as alleged in the various complaints.

This respondent further avers that the relator, Factor, in the extradition proceedings heard by Commissioner Walker, did not take the stand, nor did he deny receiving money from the Broad Street Press knowing it to have been fraudulently obtained.

This respondent denies that the depositions and documents introduced by the demanding government were not competent evidence, as alleged in the 13th paragraph of relator's petition, but, on the contrary, avers that the said documents and depositions were legal proof under the statutes of the United States.

This respondent admits that Commissioner Edwin Walker did consider said depositions and documents as evidence constituting proof furnishing good reason to believe that the crime alleged was committed and was committed by the relator.

82 This respondent denies that Commissioner Edwin K. Walker was without jurisdiction, and without lawful authority, to cause the arrest of the relator and to proceed against him in the manner aforesaid, and this respondent denies that the mittimus committing the relator is without authority in law and void, as alleged in the 17th and 18th paragraphs of his petition.

This respondent denies that said Commissioner Walker was without jurisdiction of the person of the relator, and was without authority in law to receive evidence and hear and determine the aforesaid charge as alleged in the 19th paragraph of the petition, but, on the contrary, this respondent avers that said Commissioner had jurisdiction in the premises and had power and authority to receive the evidence so received in support of the charge and to hear and determine the charge in the complaint.

This respondent further answering says, as to the 20th paragraph of relator's petition, that the relator is held by virtue of a valid process issued by the said United States Commissioner Edwin K. Walker, who was competent and authorized to act in the premises.

This respondent, as to the 21st paragraph of relator's petition, denies that relator's commitment is void, and denies that he is confined and deprived of his liberty in violation of the constitution and in violation of the statutes of the United States of America, and in violation of rights secured to him by the treaty.

This respondent denies that the petitioner is entitled to be discharged from custody and denies that pending hearing he is entitled to be enlarged on bail.

GODFREY HAGGARD, *His Britannic Majesty's Consul General,*
By FRANKLIN R. OVERMEYER,
His Counsel.

83 State of Illinois, } ss.
County of Cook. }

FRANKLIN R. OVERMYER, being first duly sworn on oath, states that he is one of the attorneys for the British Consul in the above entitled matter; that he is fully acquainted with the proceedings and that the foregoing answer, subscribed by him on behalf of the demanding government, is true in substance and in fact, according to his best knowledge and belief.

FRANKLIN R. OVERMEYER.

Subscribed and sworn to before me this 11th day of February, A. D. 1932.

WENDELL H. NEY,
Notary Public.

Feb. 11, 84 And afterwards, to wit, on the 11th day of February 1932, being one of the days of the regular February term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable George A. Carpenter District Judge, appears the following entry, to wit:

85 * * (Caption) * *

ORDER OF DISCHARGE.

And now on this 11th day of February, A. D. 1932, comes the said H. C. W. Laubenheimer, United States Marshal for the Northern District of Illinois, Eastern Division, to whom

the said writ of habeas corpus in this behalf was directed, and has now here in court the body of the said John Factor, together with said writ and the return of him the said H. C. W. Laubenheimer thereon, and said return having been traversed by leave of court and thereupon the allegations and proofs of the respective parties in this matter having been heard and examined, and the court having heard arguments of counsel, and being fully advised in the premises finds:

1. That the court has full and complete jurisdiction of the parties to this suit and the subject matter thereof.

2. As a fact that receiving money knowing the same to have been fraudulently obtained is not a crime under the laws of the State of Illinois.

3. That the said John Factor at the time of the issuing and the serving of the said writ of habeas corpus was and is now unlawfully detained by the said H. C. W. Laubenheimer and ought not to be remanded to his custody.

It Is Therefore Ordered by the court that the said John Factor be and he is hereby discharged from the custody of the said United States Marshal and set at liberty to go hence without day upon his entering into recognizance in the prin-
cipal sum of fifty thousand dollars ($50,000.00) with good
86 and sufficient surety to be approved by the court, conditioned upon his personally appearing before the United States Circuit Court of Appeals for the Seventh Circuit in the above entitled cause to answer and abide the judgment of said court, and to personally appear before the Supreme Court of the United States in the above entitled cause to answer and abide the judgment of said court in the event of a review of the above entitled cause by said court.

Enter:

CARPENTER,
Judge.

Dated February 11th, A. D. 1932.

87 And on, to wit, the 11th day of February come John Factor as principal and filed in the Clerk's office of said Court, in said entitled cause, a certain Bond in words and figures following, to wit:

11, 88 * * (Caption) * *

Know All Men By These Presents, That John Factor, of the County of Cook, State of Illinois, as principal, is held and firmly bounden unto H. C. W. Laubenheimer, United States Marshal for the Northern District of Illinois, Eastern Division, and unto the United States of America, in the full and just sum of Fifty Thousand Dollars ($50,000.00) to be paid unto the said H. C. W. Laubenheimer, United States Marshal for the Northern District of Illinois, Eastern Division, and/or the United States of America, to which payment well and truly I bind myself, my heirs, executors, administrators and successors, jointly and severally by these presents.

Sealed with our seals and dated this 11th day of February in the year of our Lord, One Thousand Nine Hundred and Thirty-two.

Whereas, lately, on the 11th day of February, 1932, at the February Term of the United States District Court for the Northern District of Illinois, Eastern Division, in a cause pending in said court between the United States of America ex rel, John Factor, vs. H. C. W. Laubenheimer, United
89 States Marshal for the Northern District of Illinois, Eastern Division, an order of the United States District Court for the Northern District of Illinois, Eastern Division, was entered on habeas corpus discharging John Factor of and from the custody of the said United States Marshal upon the said John Factor entering into recognizance in the principal sum of Fifty Thousand Dollars ($50,000.00) with good and sufficient surety to be approved by the court conditioned upon his personally appearing before the United States Circuit Court of Appeals for the Seventh Circuit on an appeal in said cause to answer, abide and obey all the judgments and all orders made by the United States Circuit Court of Appeals for the Seventh Circuit in said cause, and upon his personally appearing before the Supreme Court of the United States in event of certiorari in said cause to answer, abide and obey all the judgments and all orders made by the Supreme Court of the United States in said cause.

Now the Condition of Said Obligation is such, That if he, the said John Factor, shall appear in person before the United States Circuit Court of Appeals for the Seventh Circuit in an appeal of said cause to answer, and shall abide and obey all the judgments and all orders made by the United

States Circuit Court of Appeals for the Seventh Circuit in any appeal of said cause, and shall personally appear before the Supreme Court of the United States in the event of certiorari in said cause to answer, and shall abide and obey the judgment and all orders made by the Supreme Court of the United States, then this obligation is to be void, otherwise to remain in full force, virtue and effect. $50,000 Liberty Bonds deposited with the Clerk February 11, 1932 for the faithful performance of this bond and made a part hereof.

JOHN FACTOR (Seal)

90 Signed and acknowledged to and before me this 11th day of February, 1932.

CHARLES M. BATES
Clerk.

Approved by:
CARPENTER
United States District Judge.

11 Feb. 1932.

O. K.
L. MOODY
Atty for U. S.

91 And afterwards, to wit, on the 11th day of February 1932 being one of the days of the regular February term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable George A. Carpenter District Judge, appears the following entry, to wit: Entered 1932.

92 • • (Caption) • •

Thursday, February 11, 1932.

Present: Honorable George A. Carpenter, Judge of said Court.

This day comes the Relator by his attorney and presents herein his bond in the penal sum of Fifty Thousand ($50,000.00) Dollars which bond is approved and signed by the Court and ordered by the Court to be filed by the Clerk of this Court.

tions. 116 * * (Caption) * *

BILL OF EXCEPTIONS.

Be it remembered that heretofore, to-wit, on the 20th day of January, A. D. 1932, the above entitled cause came on to be heard at Chicago, Illinois by the District Court of the United States, for the Northern District of Illinois, Eastern Division, upon the issues joined therein, His Honor George A. Carpenter, Judge Presiding, without a jury.

Whereupon, it appearing to the Court that writs of habeas corpus and certiorari having duly issued out of said District Court of the United States for the Northern District of Illinois, Eastern Division, on January 12th, A. D. 1932, said writs having been ordered issued by the Honorable Charles E. Woodward, Judge Presiding; that H. C. W. Laubenheimer, United States Marshal for the Northern District of Illinois, Eastern Division having filed his return to the District Court of the United States for the Northern District of Illinois, Eastern Division, to the said writ of habeas
117 corpus; and that Edwin K. Walker, United States Commissioner in and for the Northern District of Illinois, Eastern Division, having made and filed his return to the writ of certiorari to the District Court of the United States for the Northern District of Illinois, Eastern Division; and it further appearing that traverses to each of said returns were duly filed, this cause came on to be heard upon said petitions, returns and traverses.

And thereupon counsel for the relator presented to the Court a printed abstract of the said return of United States Commissioner Edwin K. Walker consisting of a true abstract of the depositions and documents of the demanding government and of the testimony of witnesses produced by John Factor, and all orders, pleadings, motions and rulings made, entered and filed in the extradition proceeding before Edwin K. Walker as United States Commissioner aforesaid, and the parties hereto have by stipulation of counsel, which said stipulation is attached hereto and made a part hereof, agreed that the said printed abstract, which is attached to this Bill of Exceptions and made a part hereof, together with true copies of all exhibits contained in said return so made by said Edwin K. Walker, as United States Commissioner aforesaid, not included in said printed abstract be

also attached hereto and made a part hereof, and that said printed abstract and said true copies of such exhibits may be considered for all purposes on any appeal in this cause in lieu of the original return of said Edwin K. Walker, as United States Commissioner aforesaid, to said writ of certiorari and may be certified in any proceeding on appeal as a true copy of the return of said Commissioner.

118 Whereupon, representatives of the demanding government in their argument before said Court read extracts from a stenographer's notes of the oral remarks of Judge Louis FitzHenry made at the time Judge FitzHenry sustained a motion made upon behalf of the demanding government to strike a prior petition for a writ of habeas corpus from the files.

Whereupon, the Court took judicial notice that a former petition for discharge on a writ of habeas corpus was stricken from the files by Judge FitzHenry.

Whereupon, representatives of the demanding government urged the Court to adopt the oral remarks of Judge FitzHenry as aforesaid, and hold that the offense of receiving money knowing it to have been fraudulently obtained is a criminal offense under the laws of the State of Illinois.

Whereupon, on the 11th day of February, A. D. 1932, the Court delivered his opinion and ordered the same to be made a part of this Bill of Exceptions, which option is in words and figures as follows:

OPINION OF THE COURT.

A word about the history of the case. In December 1930, a complaint was lodged in London, England, against the defendant. I am speaking of the last complaint, the only one we are concerned with here, and extradition was necessary because Factor, who was charged with a crime in London, was in the United States.

In May 1931, a complaint was filed before Commissioner Walker in this district by the Government of Great Britain, the Demanding Government, asking for extradition.

119 Hearings before the Commissioner began, during which an application for a writ of habeas corpus was brought in this Court on the ground that the crime for which extradition was sought was not a crime in the State of Illinois, the state of asylum. A motion to strike that petition from the files prevailed in this Court. I take the motion to strike in the nature of a demurrer or a motion to dismiss. I am not passing upon the propriety of that motion, or its disposal.

The Commissioner, having resumed and completed the hearings, on January 12, 1932, certified the evidence to Secretary of State, under the provisions of our Federal Law, and ordered Factor into custody.

The proceeding in this Court now is by way of habeas corpus, and challenges the jurisdiction of the United States Commissioner in ordering Factor into custody. The character of that custody I am not considering at all. It seems, at least it has come to me by way of rumor, that it is unusual to say the least, but apparently neither side has objected; certainly the Demanding Government has not objected. Whether he was technically or actually in custody, is not before the Court at this time. I am treating the mat-
ter as if he were actually in the custody of the Marshal
120 of this Court, under Commissioner Walker's order.

In disposing of the matter before me, I am governed by the Treaty between this country and Great Britain of 1889, which enlarged the number of extraditable offenses enumerated in the Treaty of 1842. Some question has been raised that that part of the Treaty of 1842, and which I now quote, provides, "That this shall only be done"—that is, the extradition,—"upon such evidence of criminality as according to the laws of the place where the fugitive or person so charged shall be found would justify his apprehension and commitment for trial, if the crime or offense had there been committed."

The purport of the argument seemed to be that those words were not contained in the Treaty of 1889. Am I right about that, gentlemen, that the Treaty of 1889 did not contain those words?

My judgment is that the Treaty of 1842 is still in force and that the Treaty of 1889 merely increased the number of extraditable offenses. If that were not so, it would be difficult, it seems to me, to reconcile the action of the Supreme Court of the United States in the Hinkle case, in the 190th and in the Kelly vs. Griffen case in the 241st, and the Mulligan case, reported in 50 Fed. 2nd Series, and I hold for the purpose of this hearing that the two Treaties are
to be considered together, and that the provision of the
121 Treaty of 1842 carry on and become a party of the Treaty of 1889.

The essentials of our Treaties with Great Britain in cases of this sort are that the crime charged:—first, must be enumerated in the Treaty; second, made criminal by the De-

manding Government; and, third, made criminal by the laws where the accused is found.

The record shows that the crime charged in London was, "Receiving money knowing it to have been fraudulently obtained," and that such was in fact one of the crimes enumerated in the Treaty of 1889 between this country and Great Britain. The record also shows that "receiving money knowing it to have been fraudulently obtained" was made criminal by the laws of Great Britain. We are concerned in the present proceeding solely with the fact whether or not it was a crime in the place of asylum, State of Illinois. This is purely a question of fact. It can be nothing else.

The record shows evidence was offered by the Respondent of eminent judges and learned assistants to the State's Attorney of Cook County, Illinois. Each one of them testified
122 that as a matter of fact the obtaining of money, knowing it to have been fraudulently obtained, was not a crime in this State. The witnesses, the judges and the assistants to the State's Attorney were open for cross-examination. The Commissioner allowed the other side to offer evidence on the same point, the only limitation being that there should be five such witnesses on each side, and no more.

The main reliance placed by the Respondent, the Demanding Government, is upon the "Fraudulent Conveyance Act of Illinois." To summarize what that Statute condemns, I might put it in these words:

> Every person who shall be a party to a fraudulent conveyance made with intent to deceive and defraud others, or to defeat, hinder, or delay creditors, or others, of their just debts, damages, demands shall be fined not exceeding One Thousand Dollars.

That Statute does not make it a crime to receive money knowing it has been fraudulently obtained. There is no charge in the original proceeding before the Commissioner
123 that Factor had been party to a fraud or had made any conveyance with the intent to defraud his creditors. The Fraudulent Conveyance Act on the Illinois Statute books punishes fraudulent conveyance having certain defined results. There is nothing that can be found there to indicate that a man who receives money, knowing it to have been fraudulently obtained, is intended to be included.

We come now to the Griffen case which is the nub of the whole situation. It has been told the Court that Judge Lan-

dis in that case decided it upon the Illinois Fraudulent Conveyance Act. That may be so. I will say that Mr. Justice Holmes, in disposing of that case, used language which could be construed to the effect that there was in the State of Illinois a law making it a crime to receive money, knowing it to have been fraudulently obtained.

When we come to consider the issues in that case, we find that the crime charged by the Canadian Government was one which made it an offense to receive money, knowing it had been stolen from the Government, or a public official.

124 There were charges of perjury as well. Mr. Justice Holmes, after disposing of the matter of perjury, states:

"The last charge, 'stealing or embezzling and receiving money fraudulently obtained,' needs a word of explanation. It may be assumed that there is no evidence of larceny or embezzlement, as commonly defined, but the receiving of property known to have been fraudulently obtained is a crime by the laws of both Canada and Illinois."

That is a very broad statement, but it is subject to the limitation of the very issues which the Supreme Court had before it. There was a crime committed in Canada, so charged at least, which was also a crime in the State of Illinois. The receiving of money in the State of Illinois, knowing that it had been fraudulently obtained from some public body or some public officer having public moneys in this charge.—that it had been fraudulently obtained by him, is made a crime under the laws of the State of Illinois.

That the lawyers in that case recognized the situa-
125 tion, no stress was made of our Fraudulent Conveyance Act. They cited the Larceny Statute, the Embezzlement Statutes, the Receiving Statutes, and I will say now that it makes no difference what you call the crime if, in fact, it is identical in substance in both jurisdictions, in the jurisdiction of the Demanding Government and the jurisdiction of the asylum. The only mention made of the Fraudulent Conveyance Act was one parenthetical statement in the brief of counsel for the Canadian Government. The reliance was placed upon different statutes, and Mr. Justice Holmes, in disposing of the case, when he used the language that "the receiving of property known to have been fraudulently obtained, is a crime by the laws both of Canada and of Illinois" must have meant, on the facts in that case, money fraudu-

lently obtained from or by a public official, and received by some person knowing of that fraud.

Now, it must be perfectly clear that the Supreme Court of the United States could not, and Mr. Justice Holmes did not intend to hold that it was an offense against the peace and dignity of the State of Illinois, when in fact it was not.

126 Lawyers on both sides have scoured the Acts of Legislature on this point. They have gone all through the Criminal Code. All that they can find is the Fraudulent Conveyance Act.

Mr. Justice Holmes did say, in general language, that receiving money from one, knowing it was fraudulently obtained, was a crime against the State of Illinois. Whether it was or not was a question of fact. The record in this case discloses that, in fact, there was no such crime in the State of Illinois. No statute has been produced, in the judgment of the Court, making it a crime.

The testimony of the expert witnesses, if I may so designate them, is all to the effect that there was no such crime on the books of the State of Illinois or at common law, as administered in the State of Illinois. The whole proceeding must stand or fall on that question of fact. The Treaty so provides, and I am of the opinion that there is no law in the State of Illinois similar to or substantially the same, making it a crime such as was defined in the jurisdiction of the Demanding Government.

127 An order may be prepared discharging the prisoner.

Now, before the order is entered, I assume that this case is of such importance that what I have said here, or my order, will be taken to the Court of Appeals for review. Under the Revised Statutes, Section 765, the Supreme Court of the United States promulgated rules with reference to the custody of prisoners, pending review of the proceedings in habeas corpus. There are three provisions.

The first is, pending review of a decision refusing a writ of habeas corpus, the custody of the prisoner shall not be disturbed. We are not concerned with that here.

Second, pending a review of a decision discharging the writ of habeas corpus, after it has been issued, the prisoner may be remanded to the custody from which he was taken by the writ or detained in other appropriate custody, or enlarged upon recognizance, with surety, as to the Court or judge

rendering the decision may appear fit in the circumstances of the particular case. We are not concerned with that.
128 Pending review of a decision discharging a prisoner on habeas corpus, he shall be enlarged upon recognizance with assurance for his appearance to answer and abide by the judgment of the Appellate proceedings and, if, in the opinion of the Court or judge rendering the decision, surety ought not to be required, the personal recognizance of the prisoner shall suffice.

I am asking now Counsel for the Demanding Government—it is your intention—

Mr. Overmyer: Of course it is, to appeal.

The Court: —to prepare the papers for appeal?

Mr. Overmyer: Yes.

The Court: Can you have them ready by tomorrow?

Mr. Overmyer: Yes, I am sure I can. Maybe this afternoon, if your Honor can be here.

The Court: What?

Mr. Overmyer: Maybe I can have them ready this afternoon if your Honor will be here.

The Court: Well, I shall be here at half past two, if that is convenient, or three o'clock.

Mr. Overmyer: I wil lwork as speedily as possible in any event.

The Court: What do you suggest as a bond?

Mr. Overmyer: Well, I think it should be Fifty Thou-
129 sand Dollars, your Honor. That was the bond fixed by the Commissioner.

The Court: That was the judgment of the Court before I asked you your judgment.

Mr. Overmyer: Well, that was the bond fixed by the Commissioner, although they agreed never to make that bail.

The Court: But when the appeal is allowed and the order discharging Factor is entered, it is on condition that Factor enter into a bond or recognizance, with surety, in the sum of Fifty Thousand Dollars, "To abide by the judgment of the Appellate proceedings."

Mr. Gilbert: We shall do so.

The Court: That will be found in the United States Code annotated, title 28, Rule 42 U. S. Supreme Court.

Mr. Stansbury: May it please your Honor, what nature and character of surety would you require?

The Court: What.

Mr. Stansbury: What nature and character of surety would you require?

The Court: Good surety.

Mr. Stansbury: Real estate or Liberty Bonds?

130 The Court: Oh, if they put up cash or Liberty Bonds, or Surety Company bond, that will be all right.

Mr. Gilbert: If your Honor please, we will put up Liberty bonds.

Mr. Stansbury: Your Honor will have to approve the bond?

The Court: Yes.

Mr. Overmyer: Your Honor, there is one thing I don't want to quibble over but your Honor makes some mention of the fact that I did not cross-examine the experts. The record, I believe, shows I did. Counsel will admit that I did cross-examine them. I produced no witnesses, but I cross-examined them.

Mr. Gilbert: Yes, you did.

The Court: The witnesses were not shaken on cross-examination and no evidence to the contrary was furnished.

Mr. Overmyer: No.

The Court: The whole thing as it presents itself to me is this question of fact, did we have such a law? Did we define such a crime in Illinois? Now, that is a question of fact. And, as I say, The Supreme Court can't say that it is

131 a fact when, in fact, it is not a fact.

Mr. Overmyer: May I suggest if it were a question of fact, then the Commissioner's finding could not be disturbed.

The Court: Why?

Mr. Overmyer: Because on the question of fact his judgment is supreme unless you can say there is no evidence to support it.

The Court: I can say there is no evidence in the record.

Mr. Overmyer: Of course.

The Court: The only evidence the Commissioner had was our Frandulent Conveyance Act, and he deferred to the opinion of Judge Landis in the Kelly versus Griffin case; he deferred to Judge FitzHenry in basing his opinion on the Kelly case. And the Commissioner himself said substantially were it not for the decisions of Judge Landis and Judge FitzHenry, and were it not for the Griffin case, he would have found the other way.

Now, I am thoroughly convinced, on an examination and an analysis of the Kelly case, that Mr. Justice Holmes did not mean what he said in its comprehensive sense. He said it was a crime in Illinois to do the thing that the man was charged with doing in Canada. That is all.

132 And thereupon, on the 12th day of February, A. D. 1932, Godfrey Haggard, British Consul General, as representative of the demanding government, upon leave of Court first had and obtained, filed as of the 11th day of February, A. D. 1932, his written petition praying leave to be made party respondent and to file an answer instanter, which motion was allowed. The answer was filed and the traverse heretofore filed to the Marshal's return was ordered to stand as a traverse to the said answer of the British Consul General.

And thereupon, to the rulings and holdings of the Court, as appearing in his opinion, aforesaid, the respondent, and said demanding government, by their counsel, on said 12th day of February, A. D. 1932, duly excepted.

And thereupon, on said 12th day of February, A. D. 1932, the Court entered an order as of the 11th day of February, A. D. 1932, discharging the relator from custody, finding:

1. That the Court has full and complete jurisdiction of the parties to this suit and the subject matter thereof.

2. As a fact that receiving money knowing the same to have been fraudulently obtained is not a crime under the laws of the State of Illinois.

3. That the said John Factor, at the time of the issuing and the serving of the said writ of habeas corpus was and is now unlawfully detained by the said H. C. W. Laubenheimer, and ought not to be remanded to his custody.

And thereupon counsel for the respondent duly excepted to the entry of said order, to the findings of the Court, and to the discharge of the relator from custody.

And thereafter, on the 12th day of February, A. D. 1932, the respondents and each of them filed their written petitions to appeal to the United States Circuit Court of Ap-

133 peals for the Seventh Circuit, together with a written assignment of errors, whereupon, the Court entered an order allowing the said appeals upon the respondent's giving a cost bond in the sum of $250.00, and issued a citation returnable March 12th, 1932, and allowed the respondents sixty days within which to settle their bill of exceptions.

Whereupon, counsel for the said John Factor agreed to waive service of the citation and thereupon the Court approved the appeal bond of the respondents and approved the bond of said John Factor in the sum of $50,000.00, as provided in the order of discharge.

Forasmuch, as the matters and things above set forth do not fully appear of record, the respondents, H. C. W. Laubenheimer, United States Marshal, and Godfrey Haggard, British Consul General, tender and present the foregoing as their Bill of Exceptions in said cause, and pray that the same may be settled, allowed, signed and sealed, and made a part of the record in said cause by this Court pursuant to the law in such cases; Certif Jud

Which is accordingly done and ordered by the Court on this 21st day of March, A. D. 1932.

GEO. A. CARPENTER (Seal)
Judge.

Presented in open Court this 9th day of March, A. D. 1932.
CHARLES E. WOODWARD
United States District Judge.

O. K.

LEVINSON, BECKER GLENN AND SCHWARTZ
BUTLER, POPE, BALLARD & ELTING
F. R. OVERMYER
JOHN G. DRENNAN
Attys for Dem, Garth & U. S. Marshal

134 * * (Caption) * *

STIPULATION.

(Filed Mar 9 1932)

It Is Stipulated by and between the parties hereto that the printed abstract attached hereto, consisting of a true abstract of the depositions and documents of the demanding government and the testimony of witnesses produced by John Factor, and all orders, pleadings, motions and rulings made, entered and filed in the extradition proceeding before Edwin K. Walker, United States Commissioner in and for the Northern District of Illinois, Eastern Division, together with a true copy of all exhibits contained in said return so made by Edwin K. Walker, as United States Commissioner aforesaid, attached to said abstract may be considered for all purposes of this appeal and for all purposes shall take the place and be in lieu of the original return of said Edwin K. Walker, as United States Commissioner as aforesaid, to the writ of certiorari issued out of the United States District Court for the Northern District of Illinois, Eastern Division.

G. GALE GILBERT JR.
Attorney for John Factor.

FRANKLIN R. OVERMYER
Attorney for H. C. W. Laubenheimer, United States Marshal, and the Kingdom of Great Britain, Demanding Government.

135 (Endorsed:) * * (Caption) * * Bill of Exceptions Presented and Stipulation Filed Mar 9 1932 at .....o'clock .....M. Charles M. Bates Clerk, F. R. Overmyer John G. Drennan 33 S. Clark. Rand 1625.

IN THE

District Court of the United States

FOR THE NORTHERN DISTRICT OF ILLINOIS,

EASTERN DIVISION.

THE UNITED STATES OF AMERICA, ex rel. JOHN FACTOR, Petitioner, vs. H. C. W. LAUBENHEIMER, United States Marshal for the Northern District of Illinois, Respondent.	Petition for Writ of Habeas Corpus. — Certiorari to Honorable Edwin K. Walker, Commissioner.

ABSTRACT OF RECORD.

Page of Record

1 Return of Honorable Edwin K. Walker, United States Commissioner for the Northern District of Illinois, Eastern Division, to the writ of certiorari.

2 Writ of certiorari.

3 MOTIONS MADE—RULINGS OF COMMISSIONER THEREON AND OBJECTIONS THERETO.

May 20, 1931. Respondent did, in open court, make oral motion to be enlarged upon bail, whereupon said motion was continued from time to time until July 28th, upon which date the motion was allowed and bail fixed at the sum of $50,000.

Motion by demanding government for continuance.

Motion was granted and case continued to Monday, May 25, 1931.

May 25, 1931. Motion of demanding government to dismiss original complaint filed herein. Motion granted and original complaint herein dismissed.

Second complaint of demanding government filed and warrant issued thereon. Respondent waived service of warrant. Warrant returned.

Motion of respondent to dismiss complaint and quash warrant filed. Argument heard—ruling reserved—respondent excepted.

Motion of demanding government to read depositions into the record. Motion granted. Reading of depositions commenced.

May 26, 1931. Objections of respondent to authentication of depositions. Ruling reserved. Reading of depositions continued.

4 May 27, 1931. Reading of depositions continued. Argument on motion to dismiss resumed. Ruling on motion to dismiss taken under advisement.

May 28, 1931. Reading of depositions continued.

May 29, 1931. Reading of depositions continued.

Motion of demanding government for continuance for two weeks' time within which to have depositions printed.

Cause adjourned. Continued to June 8, 1931.

June 8, 1931. Cause continued for checking of printed depositions to Monday, June 17, 1931, at 2 o'clock.

June 17, 1931. General and special objections of respondent to depositions filed. Argument thereon set for June 22d.

June 22, 1931. Second motion to dismiss complaint and quash warrant filed.

Argument on general objections to depositions.

June 23, 1931. Argument on general objections to depositions resumed.

June 24, 1931. Argument of general objections to depositions resumed. General objections taken with cause.

5 July 7, 1931. Argument on second motion to dismiss warrant and quash writ. Motions taken under advisement.

July 14, 1931. Motion to dismiss warrant and quash writ overruled on ground that "demanding government should not be concluded here on the face of the complaint and warrant but that it should have its opportunity to present its evidence and depositions * * * and that this case should be determined upon the whole record as and will hereafter be made." Respondent excepted to ruling of court. Cause continued to July 20, 1931.

July 20, 1931. By agreement of parties, question of respondent's right to bail reargued. Motion for bail taken under advisement.

July 28, 1931. Motion for bail granted. Bail fixed at $50,000. (At this time counsel for demanding government gave notice in open court that application would be made to a Judge of the Circuit or District Court to set aside said order on bail.) Cause adjourned to August 3d.

August 3, 1931. Motion of respondent to continue hearings pending appeal on habeas corpus to Circuit Court. Argument on motion. Motion taken under advisement.

August 6, 1931. Further argument on motion to continue hearings pending appeal on habeas corpus to Circuit Court.

6 August 11, 1931. Ruling on motion to continue hearings pending appeal on habeas corpus to Circuit Court. Denied. Respondent excepts.

August 13, 1931. Reuewal of argument on motion to dismiss. Argument on special objections to depositions.

August 17, 1931. Continuation of argument on special objections to depositions.

August 18, 1931. Argument on special objections to depositions.

August 20, 1931. Argument on special objections to depositions.

August 21, 1931. Argument on special objections to depositions.

August 24, 1931. Argument on special objections to depositions.

August 25, 1931. Argument on special objections to depositions.

August 26, 1931. Argument on special objections to depositions.

August 27, 1931. Argument on special objections to depositions.

August 28, 1931. Argument on special objections to depositions.

September 1, 1931. Argument on special objections to depositions.

September 3, 1931. Argument on special objections to depsitions. Special objections taken with cause. Ruling reserved.

September 8, 1931. Argument on law of England.

September 9, 1931. Argument on law of England. Motion of respondent for continuance to bring witnesses from abroad. Motion granted. Cause continued to September 25th.

7 September 24 to October 16, 1931. Hearing of witnesses for respondent, including legal expert witnesses.

October 20, 1931. Motion by respondent at close of all of the evidence to dismiss complaint and quash warrant. Motion taken with case and overruled December 28th; to which ruling respondent excepted.

December 28, 1931. Opinion and announcement of conclusions made.

January 12, 1932. Order certifying evidence and testimony to Secretary of State entered. Commitment issued; to which respondent excepted.

EDWIN K. WALKER,
United States Commissioner for the Northern District of Illinois, Eastern Division.

8 The Commissioner: It appears that the representatives of the demanding government in the matter of the extradition proceedings here and the respondent, Mr. Factor, and his counsel, are present. I had set this time for my decision in this case. I want to say just a word about the history of the proceeding before I announce my findings and read my reasons for my findings.

The respondent first came before me on a complaint that was filed by Mr. Godfrey Haggard, British Consul, Chicago, upon which a warrant was issued, and several days thereafter, as I recall about eight days thereafter, respondent

9 surrendered himself to the Marshal, and was brought before me. Motion was at once made on behalf of the respondent to enlarge him upon bail, and to dismiss the complaint. That complaint was upon information and belief. An adjournment for some days was had. I then denied the motion then made at that time to admit the respondent to bail, remanded him to the custody of the Marshal, and postponed the hearing of the motion then made. At the time that case came up for hearing again, the demanding government dismissed its complaint on motion and prayed leave to file a new complaint. The complaint was then ready and was sworn to. The defendant was present in court and instantly surrendered

to our custody upon this second complaint, which is the complaint in the pending case.

This case has been very extended in its hearing. Ordinarily an extradition proceeding is a simple proceeding and ought not to take long. Hearings are most generally rather formal and consist mainly in the examination of documentary evidence which has been transmitted, authenticated by proper officers, but the extraordinary and unusual features in this case have caused its prolongment maybe a little bit more than was necessary. As I look back over it, I cannot see
10 that we could have very well done otherwise than we did in the manner of the hearings and the most of the continuances. Three or four weeks, I don't recall just now, but some three weeks I think at least was taken early in the proceeding in order to enable the evidence of the demanding government to be printed into a book form. A great deal of time was taken in the hearing upon the motion to admit the respondent to bail. The evidence of the demanding government was lengthy, and specific objections were in the course of the proceedings made to every item of the evidence. Numerous motions were made. A habeas corpus proceeding was initiated and sued out during the pendency of this case, which habeas corpus proceeding was heard before the District Judge. Motion was made to suspend proceedings here while an appeal from the decision on that habeas corpus was pending. An adjournment was taken at the request of the respondent to bring witnesses from abroad. The arguments have been very lengthy, the authorities cited numerous. The questions, some of them, involved, were of great closeness and nicety. I say this in explanation of the length of the proceedings.

In making my decision here, I have thought it well to express my views in an opinion, which I have transcribed here. It is a little longer than I would have liked to
11 have had it, but it is difficult to shorten it much, and I shall now read that opinion, which will lead to my conclusions. There are some motions that have been made of record here that will have to be disposed of which I will do at the close of the reading of this opinion.

An extradition proceeding is not a trial. The Commissioner hearing such a proceeding is not a court in the true sense of that term. Such Commissioner, however, is necessarily vested with special judicial functions. Mr. Justice

Brown of the United States Supreme Court, in the case of *Grin* v. *Shine*, 187 U. S. page 181, has said:

"The Commissioner is in fact an agent of the court, possessing independent though subordinate judicial powers of his own."

Having acquired jurisdiction in the manner provided in the statute governing the proceedings, it is provided that:

"'Evidence of criminality may be heard and considered. If on such hearing he deems the evidence sufficient to sustain the charge under the provisions of the proper treaty or convention, he shall certify the same, together with a copy
12 of all the testimony taken before him, to the Secretary of State."

The treaty involved in this cause provides:

"That this shall only be done upon such evidence of criminality as according to the laws of the place where the fugitive or the person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offense had there been committed."

This extradition proceeding is brought under the provisions of the Convention of 1889, commonly known as the Blaine-Pauncefote Treaty, in which certain offenses were added to these enumerated in Article 10 of the then existing Treaty of 1842, known as the Webster-Ashburton Treaty.

Section 3 of Article 1 of said Convention of 1889 provides for extradition for "embezzlement; larceny; receiving any money, valuable security, or other property, knowing the same to have been embezzled, stolen, or fraudulently obtained."

This convention also provides as follows:

"Extradition is also to take place for participation in any of the crimes mentioned in this convention or in the aforesaid Tenth Article, provided such participation be punishable by the laws of both countries."

It is therefore incumbent upon the demanding govern-
13 ment to show the offense charged to be under the provisions of the treaty and also to exhibit such evidence of criminality as according to the laws of the place where the respondent charged is found would justify his apprehension and commitment for trial if the offense had there been committed. In the instant case, that place is the State of Illinois.

The complaint here charges that the respondent, in Lon-

don, England, received certain sums from a corporation, known as the Broadstreet Press Limited, knowing the same to have been fraudulently obtained. There is no charge in the complaint of embezzlement or larceny, or receiving money, valuable security, or other property, knowing the same to have been embezzled or stolen. Counsel for the demanding government has contended that there is some evidence tending to prove larceny as bailee or larceny by trick. This is not charged in the complaint, and I now say that I am unable to discover in the record sufficient competent evidence to sustain such finding. I am therefore constrained, in the light of the rules regarding the interpretation of treaties and the testing of the evidence of criminality, to determine this case upon the charge of receiving sums knowing the same to be fraudulently obtained.

The offense charged in the complaint is clearly one
14 enumerated in the treaty. The determination as to whether or no this charge and the evidence of criminality here shown bring this respondent within the treaty by a correct interpretation thereof is not without difficulty.

There is no criminal offense described in the statutes of Illinois in exact correspondence with the offense charged in the complaint. Receiving money, valuable security, or other property knowing the same to have been fraudulently obtained is not in specific language made an offense by the laws of this state.

In the interpretation of treaties in considering extradition proceedings, our courts have laid down principles which I am bound to consider. In the case of *Grin* v. *Shine, supra*, opinion by Mr. Justice Brown, the United States Supreme Court has said:

"In the construction and carrying out of such Treaties the ordinary technicalities of criminal proceedings are applicable only to limited extent. Foreign powers are not expected to be versed in the niceties of our criminal laws, and proceedings for surrender are not such as put in issue the life or liberty of the accused. They simply demand of him that he shall do
what all good citizens are required and ought to be will-
15 ing to do, viz.: submit themselves to the laws of their country. Care should doubtless be taken that the Treaty be not made a pretext for collecting private debts, wreaking individual malice, or forcing the surrender of political offenders."

Also:

"These Treaties should be faithfully observed and interpreted with the view to fulfill our just obligations to other powers without sacrificing the legal constitutional rights of the accused."

In *Wright* v. *Henkle*, 190 U. S. pages 40-61, the Supreme Court says:

"When by the law of Great Britain and by the law of the state in which the fugitive is found, the fraudulent acts charged to have been committed are made criminal, the case comes fairly within the treaty which otherwise would manifestly be inadequate to accomplish its purpose."

In *Tucker* v. *Alexandroff*, 183 U. S. 434, the court says:

"As treaties are solemn engagements entered into between independent nations for the common advancement of their interests and the interests of civilization, and as their main object is not only to avoid war and secure a lasting
16 and perpetual peace, but to promote a friendly feeling between the people of the two countries, they should be interpreted in the broad and liberal spirit which is calculated to make for the existence of a perpetual amity, so far as it can be done, without the sacrifice of individual rights or those principles of personal liberty which lie at the foundation of our jurisprudence. It is said by Chancellor Kent in his Commentaries, Volume 1, page 174:

"'Treaties of every kind * * * are to receive a fair and liberal interpretation according to the intentions of the contracting parties, and to be kept with the most scrupulous good faith.'"

The evidence of the demanding government was offered with certificate of authentication by the United States Ambassador at London. It consists in addition to certified copies of information, warrants, etc., of the depositions of some sixty-four witnesses together with some two hundred exhibits. Much of this evidence is of such character as to fall short of tests ordinarily applied in a trial. Motion was made by counsel for the respondent to exclude this evidence. This evidence seems to have been certified conformable to the provisions
17 of the statute and I am compelled to receive it. In determining what weight should be given to the evidence, I have striven to conform to tests governing such proceedings.

In *Collins* v. *Leisel*, 250 U. S. 309, it is said, "The phrase 'such evidence of criminality' as used in the treaty, refers

to the scope of the evidence or its sufficiency to block out those elements essential to a conviction. It does not refer to the character of specific instruments of evidence, or to the rules governing admissibility. Thus, unsworn statements of absent witnesses, may be acted upon by the committing magistrate, although they could not have been received by him under the law of the state on a preliminary examination."

Much of this evidence I have disregarded. Without specifying in detail, I will say, for illustration, that statements of the four or five witnesses who were alleged victims of the so-called fraud, that "they had investigated and found the stocks purchased to be worthless" should be disregarded, but their testimony as to the facts of the purchase and the inducements thereto should be regarded and given such weight as the circumstances justify.

The testimony discloses that the Broadstreet Press, Ltd., had a brief but remarkable career beginning in 1928 and that in one way or another it continued activities until the
18 fall of 1930. Directors testified that they had no real management or control and that their activities respecting the affairs of the corporation were almost wholly at the direction and dictation of other persons, in some instances the respondent, who did not appear to have been officers.

Cyril Thomas Newman, a witness for the demanding government, who had been appointed official receiver of the company, testified at length as to what the records of the company disclosed as to the conduct of its affairs. It appeared that the net receipts of the Broadstreet Press, after its organization in 1928 and to the end of 1928, were in the neighborhood of £29,000; for the year 1929 that total receipts of £83,045 are shown of which £78,000 were loans; that up to the end of February, 1930, total receipts of the company were £115,848, of which £108,720 were loans; that in the month of March, 1930, receipts were £102,353, no part thereof being through loans; that during the eight months from March to October, 1930, receipts were £1,619,726. The bulk of this sum appears to have been received from clients or proceeds of sales of securities received from clients.

It appears that the company was dealing with its clients in listed stocks of certain companies, particularly Edison
19 Bell, Swears & Wells, Tri-plex Safety Glass and Guy Motors; that the company advised its clients to purchase these stocks at certain figures and resell at an advance. For

example, it advised the purchase of Edison Bell at 14 shillings a share and the resale of this stock at 23 shillings a share; the purchase of Guy Motors at 15 shillings and resale at 19 shillings; the purchase of Triplex Safety Glass at 25 shillings and a little later the sale of 35 shillings; the sale of Sweans & Wells at 21 shillings.

It is disclosed from the deposition of Newman that the company had bought 211,669 shares of Edison Bell at 23 shillings or £241,149, which their clients had bought at 14 shillings; that they sold 60,729 shares of Guy Motors at 15 shillings or £45,849 and repurchased 59, 610 shares at 19 shillings or £56,627; that they sold 127,843 shares of Sweans & Wells at £94,162 of which they had repurchased 114,347 shares at £118,767; that they had sold 62,778 shares of Triplex Glass at 25 shillings and repurchased 58,321 shares at 35 shillings; these transactions showing profits to the clients and losses to the company as follows: Edison Bell £73,633, Guy Motors £10,732, Sweans & Wells £24,605, and Triplex Safety Glass £20,064. It is claimed that these transactions were carried on as a lure to facilitate subsequent sale of worthless stock.

The evidence discloses that these clients were advised to reinvest in Asbestos & Holding Trust, Ltd., Rhodesia Border Mining Corporation, Ltd., and Vulcan Copper Mines, Ltd., which stocks the demanding government contends were worthless stocks.

It appears that circulars marked private and confidential, were sent out by the Broad Street Press, Ltd., to promote the sale of these several stocks. As to the Asbestos & Holding Trust, Ltd., the circular recited that this stock was offered by the company as principal. As to the stock of the other two companies, nothing was said on that point. It appears the company had acquired the Asbestos & Holding Trust, Ltd., stock for £52,500 and sold the same for £297,405; that the company sold the Rhodesia Border Mining shares for £623,790, for which it appears they had paid the sum of £33,000. It appears similar purchases and resales at great profit were made of the Vulcan Copper Mines, Ltd., stock.

A director, Osborne, deposed that respondent known to him as J. Walker, had been introduced to him and that he, Walker, had informed him that he was about to publish a financial paper and asked him to become a director. A financial paper was published by the Broad Street Press carry-

ing the name of Osborne as editor, although Osborne testified that he had nothing to do with the editing of said paper. Later the name of the paper was changed, the name of Osborne dropped and the name of Norman D. Spencer
21 substituted as editor. The name of Norman D. Spencer, editor, appeared upon several letters sent to clients, with the name of Broad Street Press as proprietors. Some of these letters contained advice to the effect that Mr. Spencer had unique source of inside information. Letters were sent to clients purporting to have been signed by Norman D. Spencer advising purchase of stocks in question. There is no evidence in the record as to the identity of Norman D. Spencer and so far as the record appears, no one seems to have known him. One witness, however, an employee of the Broad Street Press, deposed that she was instructed when any inquiries came for Mr. Spencer to refer them to the room at the office of the Broad Street Press which was occupied by the respondent and one Klein.

The evidence discloses that from the 13th day of June, 1930, to the 27th day of October, 1930, payments by check were made to the respondent under the name of H. Wise, amounting to £709,180. On the 27th day of October, 1930, it appears that a meeting of the officers of the company was held to discuss voluntary liquidation. At that time it appears that there was a balance of £6,569 to the credit of the company in Bank. £6,000 on that day was paid to the respondent under the name of H. Wise, leaving a balance of £569.

22 The nature of the evidence and testimony of the demanding government was such that the door was opened for explanatory testimony on behalf of the respondent. No testimony was offered by the respondent respecting the transactions of the Broad Street Press, Ltd., and the receiving therefrom of the moneys charged to have been obtained by him.

The respondent produced two witnesses. One an assayor who testified respecting certain samples of ores that had been submitted to him, claimed to have been taken from the mining properties and a witness one, Major Harry Brian Pearson, a mining expert, who testified at great length respecting his examination of the properties alleged to be owned by the said mining companies. While this testimony disclosed the indication of the presence of ore in the properties, it appears that none of them are in any sense working mines or that

ore bodies of any great extent have been uncovered and blocked out. The prospects appear to be only prospects. It may be there are very good prospects but the extent of the ore bodies, the costs of developments and carrying on mining operations were but estimates and estimates only. It appears that while Major Pearson was making these investigations in Africa, the scheme for the sale of the stock of the companies was then well under way in London.

Numerous exhibits were offered in evidence by the respondent, consisting of maps, plats and reports respecting the
23 properties. What purported to be copies of contracts for the purchase of rights to these properties, were also offered in evidence by the respondent. I am unable to determine from these whether or no there was any vested property rights in the companies as to these so-called mining properties or claims.

Considering the evidence produced at the hearing, I am of the opinion that the Broad Street Press, Ltd., was engaged in the carrying on of a fraudulent scheme respecting the sale of the stocks in question.

Testimony was offered by the respondent of certain witnesses learned in the law upon the question of whether or no "receiving money knowing the same to have been fraudulently obtained" is an offense in Illinois. One of these witnesses was formerly a Justice of the Supreme Court of Illinois. One was a Judge of the Circuit Court of Cook County, and one a Judge of the Superior Court of Cook County, both of whom have had quite an extended experience as Judges of the Criminal Court of Cook County, a court of general criminal jurisdiction. Two other witnesses on these points were both men of long experience as Assistant State's Attorneys in this county.

It is unusual to receive evidence of the law as a matter of fact, except where it is sought to prove the law of a foreign jurisdiction. Explanation of why this evidence was received may be timely here. It was contended that in my capacity as United States Commissioner, I am not to take judicial
24 notice of the laws of Illinois. I do not wish it understood that I agree with this contention. I did, however, in consideration of certain authorities that were cited, receive this testimony in exercise of the right of discretion in that regard.

These witnesses testified to the effect that "receiving money

known to have been fraudulently obtained" is not an offense in Illinois. However, it seems that the District Court of the Northern District of Illinois of the United States Supreme Court has considered and passed upon that question.

This brings us to the consideration of the case of *Kelly* v. *Griffin*, 241 U. S. page 6. In that case the respondent Kelly was held for extradition to Canada under the same treaty here involved, by a United States Commissioner of this district. The respondent was there charged with perjury, obtaining money by false pretenses, and receiving moneys knowing the same to have been fraudulently obtained. This case was taken by habeas corpus to our United States District Court here, and ultimately to the United States Supreme Court.

I have made a very exhaustive examination in this case. I have examined the briefs of the appellant and of the demanding government, and carefully considered the opinions of the District Judge Kenesaw M. Landis and of Justice Holmes in the Supreme Court. District Judge Landis said:

"There is a dearth of authority, as far as the argument before me was concerned, and as far as my independent examination of it is concerned, on this particular clause.

But in the State of Illinois there is a statute which makes it an offense for a man to receive money which is embezzled by another man. There is a statute which in my opinion makes it an offense for a man to receive money that has been fraudulently obtained to his knowledge by another person from somebody else. 'Every person who shall be a party to any fraudulent conveyance of any lands, tenements or hereditaments, goods or chattels, or any right or interest issuing out of the same, or to any bond, suit, judgment or execution, contract or conveyance, had, made or contrived with intent to deceive and defraud others, or to defeat, hinder or delay creditors or others of their just debts,' etc., 'or who being a party as aforesaid at any time shall wittingly or willingly put in use, avow,' etc., 'or defend the same or any of them as true, and done, had or made in good faith or upon good consideration, or shall sell or assign, shall be fined $1,000.' That is the only statute I find in Illinois, strange enough, that meets the situation here."

He further says in his opinion:

"The good faith that must characterize the treatment of a demand by one Government on another Government for the

surrender of a fugitive charged with an extraditable offense would not permit the United States, on the showing of
26 fact made here, if there was no charge of perjury and no charge of obtaining money by false pretenses, to refuse to give up Kelly on that charge, in my opinion, even though Kelly himself was a party to the fraud, the object and purpose and result of which was separating the Canadian Government from its money."

The writ of habeas corpus was denied. This case was carried to the United States Supreme Court and affirmed. In the opinion by Mr. Justice Holmes it is said:

"It may be assumed that there is no evidence of larceny or embezzlement as (commonly) defined, but the receiving of property known to have been fraudulently obtained is a crime by the laws of both Canada and Illinois. There may be a doubt whether the appellant, if a party to the fraud, received the money of the Government directly from it, or through a third hand so as to be guilty under this count of the complaint. We are not prepared to pronounce his detention upon the count unjustifiable in view of the finding."

It, therefore, seems clear that the question as to whether or no an extradition can be had under the treaty and upon this charge, has been determined by the District Court of this district, and by the United States Supreme Court.

During these proceedings this respondent applied for writ of habeas corpus to our District Court, raising this ques-
27 tion. District Judge Fitzhenry in his opinion said:

"The court feels that the expression of Mr. Justice Holmes is conclusive upon this court. The question has heretofore been passed upon by the Supreme Court of the United States, and it is not for this court to presume to reverse the Supreme Court of the United States. If that holding is to be changed, it is to be changed by the Supreme Court of the United States itself."

I concur with Judge Landis that no other statute in Illinois makes the act of receiving moneys which are the proceeds of a fraud an offense. I cannot assume that the Supreme Court had any other statute in mind. I am bound by its ruling.

It has been most earnestly contended by the respondent that this case does not correctly state the law of Illinois and that the Illinois statute referred to, does not properly bring the acts therein made an offense, within the purview of the

treaty. This statute is substantially declaratory of the common law of England and is practically identical with the statute of 13th Elizabeth, Chapter 5. The common law of England, prior to fourth year of James II, except where changed by statute, is the law in Illinois. (Chapter 28, Revised Statutes of Illinois.) It may well be said that whether or no the acts made an offense in said statute come within the purview of the treaty, is a question of great nicety and closeness. It may be well regarded as one which ought to have further judicial interpretation by the courts of ultimate review.

This opinion indicates my views on the evidence and the questions of law, so that I am constrained to find that the demanding government have complied with the statute, and hold the defendant for extradition under the proper order. Finding and order to that effect I will now enter of record—

Mr. Gilbert: If your Honor please, may I interrupt?

The Commissioner: However, I will now indicate the rulings upon the pending motions. The motion to strike all of the evidence, exclude all of the evidence, is overruled. Motion to dismiss at the close of the demanding government's case is overruled. I think those are the only motions that were made and that are undisposed of.

Mr. Gilbert: Your Honor, may I address the Court?

The Commissioner: Yes.

29 IN THE MATTER OF THE APPLICATION FOR THE EXTRADITION OF HARRY WISE, alias J. Factor, alias GUEST, alias J. Walker, a fugitive from justice under the treaty between the United States and Great Britain.

UNITED STATES OF AMERICA,
NORTHERN DISTRICT OF ILLINOIS. } ss.

To the Honorable Henry L. Stimson,
Secretary of State of the United States:

I, EDWIN K. WALKER, a United States Commissioner for the Northern District of Illinois specially authorized and empowered to perform all the duties of a United States Commissioner under the extradition laws and treaties of the United States, do hereby certify to the proceedings in the above-entitled matter to be as follows:

On the 25th day of May, 1931, GODFREY HAGGARD, his Brittanic Majesty's Consul General in Chicago, made complaint under oath and in writing before me, charging HARRY WISE, alias J. FACTOR, alias GUEST, alias J. WALKER, with having committed certain crimes of receiving money knowing the same to have been fraudulently obtained, as set forth in said complaint, at the City of London, England, within the jurisdiction of the Kingdom of Great Britain, as follows:

"That heretofore, and on or between the 14th day of July, 1930, and the 26th day of August, 1930, at the City of London, England, and within the jurisdiction of his Britannic Majesty, one HARRY WISE, alias J. FACTOR, alias GUEST, alias J. WALKER, received from Broad Street Press Limited the sums of £15,000 and £70,000, respectively, knowing the same to have been fraudulently obtained;

30 That heretofore, and on or between the 3rd day of October, 1930, and the 27th day of October, 1930, at the aforesaid City of London, England, said HARRY WISE, alias J. FACTOR, alias GUEST, alias J. WALKER, received from Broad Street Press Limited the sum of £131,000 as follows:

On the 3rd day of October, 1930, the sum of £30,000

On the 14th day of October, 1930, the sum of £10,000

On the 16th day of October, 1930, the sum of £20,000
On the 15th day of October, 1930, the sum of £25,000
On the 17th day of October, 1930, the sum of £40,000
On the 27th day of October, 1930, the sum of £6,000

That heretofore, and on or between the 14th day of June, 1930, and the 30th day of September, 1930, at the aforesaid City of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, did receive from Broad Street Press Limited the sum of £242,500, knowing the same to have been fraudulently obtained."

And said complaint further charges that the crimes therein set forth are crimes provided for in the treaties for the extradition of fugitives between the government of the said Kingdom of Great Britain and the government of the United States and that the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker is a fugitive from the justice of England and was within the said Northern District of Illinois.

Accordingly, thereupon, on the 25th day of May, 1931, I issued a warrant for the apprehension of the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, said warrant being directed to the United States Marshal for the Northern District of Illinois and any Marshal or his deputies in the United States, and the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, having voluntarily surrendered himself to the said Marshal for the Northern District of Illinois, was, on the 25th day of May, 1931, arraigned before me.

31 Thereupon, on various days hearing was had upon said complaint and evidence was offered and received on behalf of the demanding government, consisting of depositions and exhibits, and evidence and exhibits were offered and received on behalf of the respondent, Harry Wise, alias J. Factor, alias Guest, alias J. Walker. The said respondent, from the time of his arraignment until January 12th, 1932, was kept in the custody of the said Marshal for the Northern District of Illinois.

On the 12th day of January, 1932, at my office in the City of Chicago and in the District aforesaid, the matter coming on for final hearing and disposition, and there appearing for the government of the Kingdom of Great Britain Franklin R. Overmyer and A. J. Petit, Jr., and for the respondent Messrs. Levinson, Becker, Glenn & Schwartz, with George Gale Gilbert, Jr., and Don M. Peebles and David D. Stansbury

of counsel, and it appearing to my satisfaction that there is sufficient evidence to sustain the charges under the provisions of the said treaties, I accordingly issued my mittimus for his commitment dated the 12th day of January, A. D. 1932, a true copy thereof being attached hereto and made a part hereof by reference thereto.

Thereto I annex a copy of the depositions, testimony and exhibits, together with a true copy of the complaints, war-
32 rants, motions, objections, and pleadings, taken, had, made and received before me in said hearing, and I hereby certify said copies to be true copies thereof.

WITNESS MY HAND AND OFFICIAL SEAL this 12th day of January, One Thousand Nine Hundred and Thirty-two.

EDWIN K. WALKER,
United States Commissioner for the Northern District of Illinois, and a Commissioner duly authorized by the District Court of the United States for the Northern District of Illinois to act as a Commissioner under the laws of the United States concerning the extradition of fugitives from justice of a foreign government under treaty or convention between this and any foreign government.

Seal

ay 5, 33 Before Honorable Edwin K. Walker, United States Commissioner.

IN THE MATTER OF THE APPLICATION FOR EXTRADITION OF HENRY WISE, alias J. FACTOR, alias GUEST, alias J. WALKER, a fugitive from justice, under the Treaty between the United States and Great Britain.

UNITED STATES OF AMERICA,
NORTHERN DISTRICT OF ILLINOIS. } ss.

GODFREY HAGGARD, his Britannic Majesty's Consul General, Chicago, being first duly sworn, upon his oath deposes and says that he is informed and believes and thereupon states:

That heretofore and on or between the 14th day of July, 1930, and the 26th day of August, 1930, at the City of London, England, and within the jurisdiction of his Britannic Majesty, one Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from Broad Street Press, Ltd., the sum of £15,000 sterling and £70,000 sterling, respectively, knowing the same to have been fraudulently obtained.

Second, that heretofore and on or between the third day of October, 1930, and the 27th day of October, 1930, at the aforesaid City of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from the Broad Street Press, Ltd., the sum of £131,000 sterling as follows:

On the third day of October, 1930, the sum of £30,000,
On the 14th day of October, 1930, the sum of £10,000,
On the 16th day of October, 1930, the sum of £20,000,
On the 16th day of October, 1930, the sum of £25,000,
On the 17th day of October, 1930, the sum of £40,000,
On the 27th day of October, 1930, the sum of £6,000,

knowing the same to have been fraudulently obtained;

Third, that heretofore and on or between the 14th day of June, 1930, and the 30th day of September, 1930, at the aforesaid City of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from the Broad Street Press, Ltd., the sum of £242,500 sterling, knowing the same to have been fraudulently obtained;

That at the times and place aforesaid the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, did, by means
34 of false pretenses obtain the aforesaid sums from the Broad Street Press, Ltd., thereby committing the crime of obtaining money by means of false pretenses.

Affiant further states that the information upon which this complaint is based is derived from dispatches to him from his Britannic Majesty's Embassy at Washington and from his Britannic Majesty's Consul General at New York City, wherefrom it appears that warrants have been issued for the arrest of said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, and requesting his apprehension;

That the foregoing crimes with which the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is charged are indictable crimes in the Kingdom of Great Britain, and an offence within the Treaties between the United States and the Kingdom of Great Britain and Ireland;

That said Harry Wise, alias J. Factor, alias Guest, alias

J. Walker, is a fugitive from the Kingdom of Great Britain and is now within the territory of the United States.

Further affiant sayeth not.

GODFREY HAGGARD,
British Consul General.

Subscribed and sworn to before me this 5th day of May, A. D. 1931.

EDWIN K. WALKER,
United States Commissioner for the Northern District of Illinois, and Commissioner duly authorized by the District Court of the United States for the Northern District of Illinois to act as a Commissioner under the laws of the United States concerning the extradition of fugitives from justice of a foreign government under a treaty or convention between this and any foreign government.

Seal

35 *The President of the United States of America*
To any Marshal of the United States to
the Deputies of any such Marshal
or either of them.

Issued 1931.

WHEREAS, a complaint has been made on oath under the Treaty between the United States of America and Great Britain, signed at Washington on the Ninth day of August, One Thousand Eight Hundred and Forty-two, the ratifications whereof were exchanged at London on the Thirteenth day of October, in the same year, and a convention supplementary to the said Treaty between the same high contracting parties, concluded at Washington on the Twelfth day of July, One Thousand Eight Hundred and Eighty-nine, the ratifications whereof were exchanged at London on the Eleventh day of March, One Thousand Eight Hundred and Ninety; and the further convention supplementary to the said Treaty, concluded at Washington on the Thirteenth day of December, One Thousand Nine Hundred, the ratifications whereof were exchanged at Washington on the Twenty-second day of April, One Thousand Nine Hundred and One; and a further convention supplementary to the said Treaty, concluded at London on the Twelfth day of April, One Thousand Nine Hundred and Five, the ratifications whereof were exchanged at Wash-

ington on the Twenty-first day of December, One Thousand Nine Hundred and Six, before me, Edwin K. Walker, a commissioner appointed by the District Court of the United States for the Northern District of Illinois, and also a Commissioner especially appointed and authorized by the District Court of the United States for the Northern District of Illinois to act as a Commissioner under the laws of the United States, concerning the extradition of fugitives from justice of a foreign government, under a Treaty or convention between this and any foreign government, for the apprehension and delivery up of certain offenders;

That heretofore and on or between the 14th day of July, 1930, and the 26th day of August, 1930, at the City of London, England, and within the jurisdiction of his Britan-
36 nic Majesty, one Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from Broad Street Press Limited the sums of Fifteen Thousand Pounds (£15,000) Sterling and Seventy Thousand Pounds (£70,000) Sterling, respectively, knowing the same to have been fraudulently obtained; that heretofore and on or between the 3rd day of October, 1930, and the 27th day of October, 1930, at the aforesaid City of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from the Broad Street Press Limited, the sum of One Hundred and Thirty-one Thousand Pounds (£131,000) Sterling, as follows:

On the 3rd day of October, 1930, the sum of £30,000,
On the 14th day of October, 1930, the sum of £10,000,
On the 16th day of October, 1930, the sum of £20,000,
On the 16th day of October, 1930, the sum of £25,000,
On the 17th day of October, 1930, the sum of £40,000,
On the 27th day of October, 1930, the sum of £6,000,

knowing the same to have been fraudulently obtained; that heretofore and on or between the 14th day of June, 1930, and the 30th day of September, 1930, at the aforesaid City of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from the Broad Street Press Limited, the sum of Two Hundred and Forty-two Thousand Five Hundred Pounds (£242,500) Sterling, knowing the same to have been fraudulently obtained;

That the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker is a fugitive from the justice of England, Kingdom of Great Britain, and is now within the territory of the United States, and a warrant has been issued at Lon-

don, England, aforesaid, for the apprehension of the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, for the offenses herein charged; and that the crime with which the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is herein charged is an offense within the Treaties between the United States and Great Britain.

NOW, THEREFORE, WE COMMAND YOU FORTHWITH to take said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, and bring him before me, the said Commissioner, at my office
37 in Room 878, Federal Building, City of Chicago, State of Illinois, or before the nearest Justice, Judge or Commissioner in the District in which said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is apprehended, authorized to act in any proceeding for the extradition of fugitives from justice of a foreign government, as provided in Section 5270 of the Revised Statutes of the United States, in order that the evidence of the criminality of the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, may be heard and considered and if deemed sufficient to sustain the charge that the same may be certified, together with a copy of the proceedings to the Secretary of State, that a warrant may issue pursuant to the Treaties.

WITNESS MY HAND AND OFFICIAL SEAL this 25th day of May, A. D. 1931.

EDWIN K. WALKER,
United States Commissioner and also a Commissioner especially appointed to execute the provisions of Title LXVI of the Revised Statutes of the United States for giving effect to certain treaty stipulations between this and foreign governments for the apprehension and delivery of certain offenders.

(United States Commissioner Seal attached)

38 Before Edwin K. Walker, Esq., United States Commissioner.

IN THE MATTER OF THE APPLICATION FOR EXTRADITION OF HARRY WISE, alias J. FACTOR, alias GUEST, alias J. WALKER, a fugitive from justice under the Treaty between the United States and Great Britain.

UNITED STATES OF AMERICA,
NORTHERN DISTRICT OF ILLINOIS. } ss.

Dat
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GODFREY HAGGARD, his Britannic Majesty's Consul General at Chicago, Illinois, being first duly sworn, upon his oath deposes and says that he is informed and believes and thereupon states:

1. That heretofore and on or between the 14th day of July, 1930, and the 26th day of August, 1930, at the City of London, England, and within the jurisdiction of his Britannic Majesty, one Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from Broad Street Press Limited the sums of £15,000 and £70,000, respectively, knowing the same to have been fraudulently obtained;

2. That heretofore and on or between the 3rd day of October, 1930, and the 27th day of October, 1930, at the aforesaid City of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from Broad Street Press Limited the sum of £131,000 as follows:

On the 3rd day of October, 1930, the sum of £30,000,
On the 14th day of October, 1930, the sum of £10,000,
On the 16th day of October, 1930, the sum of £20,000,
On the 16th day of October, 1930, the sum of £25,000,
On the 17th day of October, 1930, the sum of £40,000,
On the 27th day of October, 1930, the sum of £6,000,

knowing the same to have been fraudulently obtained;

3. That heretofore and on or between the 14th day of June, 1930, and on the 30th day of September, 1930, at the aforesaid City of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, did receive from Broad Street Press Limited the sum of £242,500, knowing the same to have been fraudulently obtained;

39 4. That the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is a fugitive from the justice of England, Kingdom of Great Britain, and is now within the territory of the United States, and a warrant has been issued at Lon-

don, England, aforesaid, for the apprehension of said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, for the offenses herein charged;

5. That the crime with which the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is herein charged is an offense within the Treaties between the United States and Great Britain;

6. That the deponent's information and belief are based upon properly certified copies of the warrant of arrest issued in London and of depositions of witnesses received at the British Consulate General, Chicago, from the Secretary of State for Foreign Affairs in London, England, all of which are ready to be produced at the hearing of this cause.

GODFREY HAGGARD,
British Consul General.

Subscribed and sworn to before me this 25th day of May, A. D. 1931.

EDWIN K. WALKER,
United States Commissioner for the Northern District of Illinois, and Commissioner duly authorized by the District Court of the United States for the Northern District of Illinois to act as a Commissioner under the laws of the United States, concerning the extradition of fugitives from justice of a foreign government under a treaty or convention between this and any foreign government.

Seal

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40 *The President of the United States of America*
To any Marshal of the United States To
The Deputies of any such Marshal
or Either of Them.

WHEREAS, a complaint has been made on oath under the Treaty between the United States of America and Great Britain, signed at Washington on the Ninth day of August, One Thousand Eight Hundred and Forty-two, the ratifications whereof were exchanged at London on the Thirteenth day of October, in the same year, and a convention supplementary to the said Treaty between the same high contracting parties, concluded at Washington on the Twelfth day of July, One Thousand Eight Hundred and Eighty-nine, the ratifications

whereof were exchanged at London on the Eleventh day of March, One Thousand Eight Hundred and Ninety; and the further convention supplementary to the said Treaty, concluded at Washington on the Thirteenth day of December, One Thousand Nine Hundred, the ratifications whereof were exchanged at Washington on the Twenty-second day of April, One Thousand Nine Hundred and One; and a further convention supplementary to the said Treaty, concluded at London on the Twelfth day of April, One Thousand Nine Hundred and Five, the ratifications whereof were exchanged at Washington on the Twenty-first day of December, One Thousand Nine Hundred and Six, before me, Edwin K. Walker, a commissioner appointed by the District Court of the United States for the Northern District of Illinois, and also a Commissioner especially appointed and authorized by the District Court of the United States for the Northern District of Illinois to act as a Commissioner under the laws of the United States, concerning the extradition of fugitives from justice of a foreign government, under a Treaty or convention between this and any foreign government, for the apprehension and delivery up of certain offenders;

That heretofore and on or between the 14th day of July, 1930, and the 26th day of August, 1930, at the City of London, England, and within the jurisdiction of his Britan-
41 nic Majesty, one Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from Broad Street Press Limited the sums of Fifteen Thousand Pounds (£15,000) Sterling and Seventy Thousand Pounds (£70,000) Sterling, respectively, knowing the same to have been fraudulently obtained; that heretofore and on or between the 3rd day of October, 1930, and the 27th day of October, 1930, at the aforesaid City of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from the Broad Street Press Limited, the sum of One Hundred and Thirty-one Thousand Pounds (£131,000) Sterling, as follows:

On the 3rd day of October, 1930, the sum of £30,000,
On the 14th day of October, 1930, the sum of £10,000,
On the 16th day of October, 1930, the sum of £20,000,
On the 16th day of October, 1930, the sum of £25,000,
On the 17th day of October, 1930, the sum of £40,000,
On the 27th day of October, 1930, the sum of £6,000,

knowing the same to have been fraudulently obtained: that heretofore and on or between the 14th day of June, 1930, and

the 30th day of September, 1930, at the aforesaid city of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from the Broad Street Press Limited, the sum of Two Hundred and Forty-two Thousand Five Hundred Pounds (£242,500) Sterling, knowing the same to have been fraudulently obtained;

That the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is a fugitive from the justice of England, Kingdom of Great Britain, and is now within the territory of the United States, and a warrant has been issued at London, England, aforesaid, for the apprehension of the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, for the offenses herein charged; and that the crime with which the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is herein charged is an offense within the Treaties between the United States and Great Britain.

NOW, THEREFORE, WE COMMAND YOU FORTHWITH to take said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, and bring him before me, the said Commissioner, at my office
42 in Room ....., Federal Building, city of Chicago, state of Illinois, or before the nearest Justice, Judge or Commissioner in the District in which said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is apprehended, authorized to act in any proceeding for the extradition of fugitives from justice of a foreign government, as provided in Section 5270 of the Revised Statutes of the United States, in order that the evidence of the criminality of the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, may be heard and considered and if deemed sufficient to sustain the charge that the same may be certified, together with a copy of the proceedings to the Secretary of State, that a warrant may issue pursuant to the Treaties.

WITNESS MY HAND AND OFFICIAL SEAL this 25th day of May, A. D. 1931.

EDWIN K. WALKER,
United States Commissioner and also a Commissioner especially appointed to execute the provisions of Title LXVI of the Revised Statutes of the United States for giving effect to certain treaty stipulations between this and foreign governments for the apprehension and delivery up of certain offenders.

Seal

43 *The President of the United States of America To any Marshal of the United States To the Deputies of any such Marshal or Either of Them*

WHEREAS, a complaint has been made on oath under the Treaty between the United States of America and Great Britain, signed at Washington on the Ninth day of August, One Thousand Eight Hundred and Forty-two, the ratifications whereof were exchanged at London on the Thirteenth day of October, in the same year, and a convention supplementary to the said Treaty between the same high contracting parties, concluded at Washington on the Twelfth day of July, One Thousand Eight Hundred and Eighty-nine, the ratifications whereof were exchanged at London on the Eleventh day of March, One Thousand Eight Hundred and Ninety; and the further convention supplementary to the said Treaty, concluded at Washington on the Thirteenth day of December, One Thousand Nine Hundred, the ratifications whereof were exchanged at Washington on the Twenty-second day of April, One Thousand Nine Hundred and One; and a further convention supplementary to the said Treaty, concluded at London on the Twelfth day of April, One Thousand Nine Hundred and Five, the ratifications whereof were exchanged at Washington on the Twenty-first day of December, One Thousand Nine Hundred and Six, and before me, EDWIN K. WALKER, a Commissioner appointed by the District Court of the United States for the Northern District of Illinois, and also a Commissioner especially appointed and authorized by the District Court of the United States for the Northern District of Illinois to act as a Commissioner under the laws of the United States, concerning the extradition of fugitives from justice of a foreign government, under a Treaty or convention between this and any foreign government, for the apprehension and delivery up of certain offenders; Dated 1931

That heretofore and on or between the 14th day of July, 1930, and the 26th day of August, 1930, at the city of London, England, and within the jurisdiction of his Britannic
44 Majesty, one Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from Broad Street Press Limited the sums of Fifteen Thousand Pounds (£15,000) Sterling and Seventy Thousand Pounds (£70,000) Sterling, respectively, knowing the same to have been fraudulently obtained; that heretofore and on or between the 3rd day of October,

1930, and the 27th day of October, 1930, at the aforesaid city of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from the Broad Street Press Limited, the sum of One Hundred and Thirty-one Thousand Pounds (£131,000) Sterling, as follows:

On the 3rd day of October, 1930, the sum of £30,000
On the 14th day of October, 1930, the sum of £10,000
On the 16th day of October, 1930, the sum of £20,000
On the 16th day of October, 1930, the sum of £25,000
On the 27th day of October, 1930, the sum of £40,000
On the 27th day of October, 1930, the sum of £6,000,

knowing the same to have been fraudulently obtained; that heretofore and on or between the 14th day of June, 1930, and the 30th day of September, 1930, at the aforesaid city of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from the Broad Street Press Limited, the sum of Two Hundred and Forty-two Thousand Five Hundred Pounds (£242,500) Sterling, knowing the same to have been fraudulently obtained;

That the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is a fugitive from the justice of England, Kingdom of Great Britain, and is now within the territory of the United States, and a warrant has been issued at London, England, aforesaid, for the apprehension of the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, for the offenses herein charged; and that the crime with which the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is herein charged is an offense within the Treaties between the United States and Great Britain.

Now, Therefore, We Command You Forthwith to take said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, and bring him before me, the said Commissioner, at my office in Room 878 Federal Building, city of Chicago, state of Illinois, or before the nearest Justice, Judge or Commissioner in the District in which said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is apprehended, authorized to act in any proceeding for the extradition of fugitives from justice of a foreign government, as provided in Section 5270 of the Revised Statutes of the United States, in order that the evidence of the criminality of the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, may be heard and considered and if deemed sufficient to sustain the charge that the same may be certified, together with a copy

of the proceedings to the Secretary of State, that a warrant may issue pursuant to the Treaties.

WITNESS MY HAND AND OFFICIAL SEAL this 25th day of May, A. D. 1931. Dated 1931

EDWIN K. WALKER,
United States Commission and also a Commissioner especially appointed to execute the provisions of Title LXVI of the Revised Statutes of the United States for giving effect to certain treaty stipulations between this and foreign governments for the apprehension and delivery up of certain offenders.

46 BEFORE EDWIN K. WALKER, Esq.,
United States Commissioner

In the Matter of the Application for Extradition of Harry Wise alias J. Factor alias Guest alias J. Walker, a fugitive from justice under the Treaty between the United States and Great Britain.

UNITED STATES OF AMERICA,
NORTHERN DISTRICT OF ILLINOIS. } ss.

GODFREY HAGGARD, his Britannic Majesty's Consul General at Chicago, Illinois, being first duly sworn, upon his oath deposes and says that he is informed and believes and thereupon states:

1. That heretofore and on or between the 14th day of July, 1930, and the 26th day of August, 1930, at the city of London, England, and within the jurisdiction of his Britannic Majesty, one Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from Broad Street Press Limited the sums of £15,000 and £70,000 respectively, knowing the same to have been fraudulently obtained;

2. That heretofore and on or between the 3rd day of October, 1930, and the 27th day of October, 1930, at the aforesaid city of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, received from Broad Street Press Limited the sum of £131,000 as follows:

On the 3rd day of October, 1930, the sum of £30,000

On the 14th day of October, 1930, the sum of £10,000
On the 16th day of October, 1930, the sum of £20,000
On the 16th day of October, 1930, the sum of £25,000
On the 17th day of October, 1930, the sum of £40,000
On the 27th day of October, 1930, the sum of £6,000,
knowing the same to have been fraudulently obtained;

3. That heretofore and on or between the 14th day of June, 1930, and the 30th day of September, 1930, at the aforesaid city of London, England, said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, did receive from Broad Street Press Limited the sum of £242,500, knowing the same to have been fraudulently obtained;

47 4. That the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is a fugitive from the justice of England, Kingdom of Great Britain, and is now within the territory of the United States, and a warrant has been issued at London, England, aforesaid for the apprehension of said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, for the offenses herein charged;

5. That the crime with which the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, is herein charged is an offense within the Treaties between the United States and Great Britain;

6. That the deponent's information and belief are based upon properly certified copies of the warrant of arrest issued in London and of depositions of witnesses received at the British Consulate General, Chicago, from the Secretary of State for Foreign Affairs in London, England, all of which are ready to be produced at the hearing of this cause.

GODFREY HAGGARD,
British Consul General.

Subscribed and sworn to before me this 25 day of May, A. D. 1931.

EDWIN K. WALKER,
United States Commissioner for the Northern District of Illinois, and Commissioner duly authorized by the District Court of the United States for the Northern District of Illinois to act as a Commissioner under the laws of the United States, concerning the extradition of fugitives from justice of a foreign government under a treaty or convention between this and any foreign government.

48 Motion of respondent, John Factor, to dismiss complaint, and as reason why said motion should be sustained said defendant assigns the following, to-wit:

1. Said complaint and the allegations therein contained are not sufficient in law to maintain this action against this defendant.

EMBASSY OF THE
UNITED STATES OF AMERICA

[SEAL OF THE
UNITED STATES OF AMERICA]

I, CHARLES G. DAWES, Ambassador Extraordinary and Plenipotentiary of the United States of America in Lon-
49 don, hereby certify that the annexed papers being copies of the Warrant of Arrest, the Informations and Depositions on which the Warrant was granted, proposed to be used upon an application for the extradition from the United States of America of Harry Wise, alias J. Factor, alias Guest, alias J. Walker, charged with the crime of receiving certain monies knowing the same to have been obtained under circumstances which amount to misdemeanour, towit, conspiracy to defraud, contrary to Section 33(1) of the Larceny Act 1916, alleged to have been committed in Great Britain, are properly and legally authenticated so as to entitle them to be received in evidence for similar purposes by the tribunals of Great Britain, as required by the Act of Congress of August 3, 1882.

CHARLES G. DAWES.

[SEAL
EMBASSY OF THE
UNITES STATES OF AMERICA
LONDON]

London, February 26, 1931.

In forwarding the annexed papers, to be used in support of an application for the surrender from the United
50 States of America of Harry Wise, otherwise J. Factor, otherwise Guest, otherwise J. Walker, charged with the

crime of receiving certain monies knowing the same to have been obtained under circumstances which amount to misdemeanour, to wit, conspiracy to defraud, contrary to Section 33(1) of the Larceny Act, 1916, committed in Great Britain. I hereby certify that, to the best of my knowledge and belief, the signature "W. R. Pryke" certifying to the correctness of the copies of the Warrant of Arrest, the Informations and Depositions on which the Warrant was granted is the signature of Alderman Sir William Robert Pryke, Baronet, one of His Majesty's Justices of the Peace for the City of London, having authority to issue and receive the same, and I further certify that such documents so certified by a Magistrate having jurisdiction in the place where the same were issued and taken, and authenticated by a Minister of State, and sealed with his official seal, would be received in evidence for similar purposes by the tribunals of Great Britain.

E. Blackwell.,
Assistant Under Secretary of State for the Home Department.

Whitehall.
24th February, 1931.

Seal
Secretary of State
Home Department

Certified at the Foreign Office for Legalization of the Foregoing Signature. "E. Blackwell."

F. G. A. Butler,
Finance Officer of the Foreign Office.

Seal
Foreign Office

London.
25th Feb. 1931.

City of London, *to wit:*

The Information of The Director of Public Prosecutions and the Deposition of Arthur Ward in support thereof
51 taken on oath this 10th day of November, 1930, being supplemental to the Information taken on oath on the 8th day of November 1930, before Alderman Howell at the

Guildhall Justice Room, before me, the undersigned, one of the Aldermen for the City of London, sitting at the Mansion House Justice Room upon an application for a Warrant against Arthur J. Klein for that he on divers days between the 1st day of September 1928 and the 1st day of November, 1930, conspired with Walker, Wise, Moncrieff, Green, Guest, and Spellan, and with other persons unknown to defraud such persons as should thereafter be induced to part with money to him the said Arthur J. Klein and the aforesaid persons, trading for the name of the Broad Street Press Limited, by false representations that they were then carrying on a genuine business as Stock and Share Brokers, against the Peace, etc.

And the said Arthur Ward on his oath saith:

(1) I crave leave to refer to the aforesaid Information of the 8th day of November 1930, a copy of which is annexed hereto and is marked "A."

(2) I am informed and verily believe that the said Arthur J. Klein was buying and selling shares on behalf of Broad Street Press Limited. One of the said transactions concerned a block of 320,000 shares in the Asbestos and Holdings Trust Ltd. of the nominal value of 5/- each for an amount representing roughly 1/6 per share which were bought on behalf of Broad Street Press Limited from Asbestos Consolidated Mines of Rhodesia Limited through the agency of one J. Brooks of 14, Copthall Avenue and on the 14th day of March 1930, the Asbestos Consolidated Mines of Rhodesia Limited acknowledged in writing by letter addressed to the said Arthur J. Klein at 14, Copthall Avenue the payment of £1,500 for 20,000 shares part of the above mentioned block of shares. At or about this time Broad Street Press Limited were selling the shares of Asbestos and Holdings Trust Limited to the clients mentioned in paragraph 3 of the Deposition of Cyril Thomas Newmann annexed to the Information marked "A." Thereafter the Cash Book of Broad Street Press Limited shews the following payments to the said Arthur J. Klein:

27th May, 1930,	£ 7,863.
26th June 1930,	£10,000.
30th June 1930,	£ 5,000.

(3) I have made inquiries and believe that the said Arthur J. Klein is a passenger on the S. S. "Olympic" bound for

New York, which is believed to be due to arrive at that Port on Tuesday, the 11th November, 1930.

ARTHUR WARD.

Taken and Sworn before me this 10th November, 1930.

(Sgd) W. R. PRYKE,
Alderman and Justice of the Peace,
City of London.

"A"

CITY OF LONDON, *to wit:*

The Information of the Director of Public Prosecutions and the Depositions of CYRIL THOMAS NEWMAN and
53 ARTHUR WARD in support thereof, taken on oath this 8th day of November, 1930, before me the undersigned, one of the Aldermen for the City of London, sitting at the Guildhall Justice Room, upon an application for a Warrant against ..... Walker, ... Wise, ... Moncrieff, ... Green, ... Guest and ..... Spellan, for that they, on divers days between the 1st September 1928 and the 1st November 1930, conspired together and with other persons unknown to defraud such persons as should thereafter be induced to part with money to the said Walker, Wise, Moncrieff, Green, Guest and Spellan, trading under the name of the Broad Street Press Limited, by false representations that they were then carrying on a genuine business as Stock and Share Brokers.

Against the Peace, etc.

And the said CYRIL THOMAS NEWMAN on his oath saith:—

(1) I am an Examiner in the Department of the Official Receiver in Companies Liquidation. I have been enquiring into the affairs of the Broad Street Press Limited, and the facts hereinafter stated have come to my knowledge during the course of such enquiry and are to the best of my knowledge true and capable of proof.

(2) The Company was incorporated as a private Company on the 8th September 1928 with a nominal capital
54 of £5,000 divided into Ordinary Shares of £1 each. Albert Simon Joseph Osborne and Albert Paris were Directors, holding respectively 1,998 shares and 3,000 shares, J. H. Osborne, the Secretary, 1 share, and H. B. Coggins, a signatory,

1 share. I have seen and taken statements from the two Directors Osborne and Paris. They both state that in September 1928 they were introduced—neither can remember by whom—to a Mr. Walker. He asked them if they would like to be Directors of a Company; he did not mention the name. They were to be paid £100 a year, and their duties were to sign cheques or anything else they were told. These interviews were separate and neither Osborne nor Paris were known to each other at the time. On the 12th September 1928 they attended a meeting at the office of Mr. Elman of 27 Lincoln's Inn Fields, who was the solicitor to the Company. The said Walker was present, shares were then allocated, 1,998 to Osborne and 3,000 to Paris. Both say that they never paid anything for these shares. Osborne states that he used to attend at the office at 2 Broad Street Buildings daily for a few months for the purpose of signing cheques. He used to see there the said Walker at times and the said Moncrieff, who was the Manager of the business and paid him his salary weekly. Osborne says that Walker told him he should have £4 a week at first instead of £2, and during the last 18 months he has been receiving £6. He also occasionally attended Board Meeting at the office of Mr. Elman, when Walker sometimes was present, and when he was he did all the talking; at other times only himself, Elman and Paris, but neither he nor Paris took any part whatever in the management of the business or knew anything about it. Paris states that he never attended at 2 Broad Street
55 Buildings at all. Cheques in blank in large numbers were sent to him to sign, and he did sign them and return them to 2 Broad Street Buildings.

(3) The Company published a weekly financial paper which for the first few months was called "The City News and Stock Exchange Observer," of which Osborne was described as Editor, although he says he took no part whatever either in editing or in publishing it. In June 1929 the name of the paper was changed to "Finance and Stock Exchange Observer." It appeared under that name up to the last published edition in October, and the Editor appears in the issue of the 11th September 1929 as "Norman D. Spenser." This, so far as I have been able to discover, is an entirely fictitious name. Up to about March 1930 the Company appears to have advised clients in the buying and selling of reasonably good securities. In March 1930 clients were widely circularised

to the effect that Spenser, who was always on the look-out for shares, which he could recommend, was completing his investigations regarding shares which in his opinion were good for considerable capital appreciation; that the shares would shortly be introduced to the London Stock Exchange at about 7s.6d. per share and that he would be making arrangements to secure the shares for clients at 5/- a share; and clients were asked to fill in a form enclosed stating the number of shares they wished to be secured for them. A few days afterwards the clients were informed that the shares were Asbestos Holdings Trusts, Limited, and that they had been purchased for them. Other shares which clients were advised to buy, being told that they were certain to go up very largely in value and that they were perfectly safe and could be well recommended, were shares in the Vulcan Copper Mines Limited and Rhodesia Border Mining Corporation Limited. Large numbers of clients bought shares in these three Companies. A very large number of them had previously bought shares recommended by the Broad Street Press Limited in perfectly sound concerns which had shewn a profit
56 when sold and, therefore, clients were more easily persuaded to invest in the three companies already mentioned. In many cases clients who had bought shares in solid concerns and had been told that they had made a profit refused to buy any further shares and asked for the profit they had made to be sent to them. In spite of this, in numerous cases the Broad Street Press Limited informed them that they had bought shares for them in one or other of the three Companies already mentioned, and they were unable to get any redress. I have received numerous complaints from persons who have bought shares on the strength of the representations of the Broad Street Press Limited and its Agents.

(4) I have, from an inspection of the Company's banking account, discovered that between the 3rd September 1930 and the 16th October 1930 there are payments through the Company's account at Barclays Bank, Bishopsgate, to the said Wise totalling £375,000, and further payments to the said Wise through the Midland Bank, Gray's Inn Branch, totalling £84,000. This money has now all disappeared.

(5) I have been in communication with Messrs. Mullens, Marshall, Steer, Lawford & Co., Government Brokers, who state with regard to the Asbestos Holdings Trust Limited, the

Rhodesia Border Mining Corporation Limited and the
57 Vulcan Copper Mines Limited that there have never been any dealings on the Stock Exchange in the shares in any of these Companies, and that the shares are entirely worthless.

(6) I have found among the Company's papers:—

(*a*) one letter addressed to Jack Factor from Mr. Hermann of Chicago.

(*b*) a few papers referring to Spellan,

(*c*) seven slips addressed to H. Green from Ashford & Co. of Tokenhouse Yard, relating to purchase of shares.

(Sgd.) C. T. NEWMAN.

And the said ARTHUR WARD on his oath saith:—

(1). I am a Detective-Inspector of the City Police and have been making inquiries into this case at the request
58 of the Director of Public Prosecutions. The facts hereinafter mentioned have come to my knowledge during the course of such inquiries and are to the best of my knowledge true and capable of proof.

(2) The premises at 2 Broad Street Buildings consisted of seven offices at a rental of £410 per annum on a seven years lease from the 29th September 1928. The offices originally were leased by the said Wise, who prior to the 29th September 1928 was carrying on the business of the "City News and Stock Exchange Observer." He transferred his lease of the premises to the Broad Street Press Limited in September 1928.

(3) I have seen and taken a statement from a Miss Cunningham, who is employed as a shorthand-typist by the Broad Street Press Limited, on the 5th April of this year. She was engaged by the said Moncrieff, her duties mostly were typing letters, from dictation, to clients about investments in perfectly sound securities. She worked most of her time at 2 Broad Street Place, which is opposite to Broad Street Buildings. She states that she occasionally went over to 2 Broad Street Buildings and that the principals engaged there were the said Moncrieff, the said Green, the said Guest and the said Spellan.

(Sgd) ARTHUR WARD.

41. INDICTABLE OFFENCES.—WARRANT.

CITY OF LONDON, *to wit:*

To each and all of the Constables of the Police Force for the City of London and the Liberties thereof, and to 59 all other Constables and Peace Officers in the said City and Liberties.

Whereas, ARTHUR J. KLEIN (hereinafter called the "Accused") has this day been charged upon Oath before the undersigned one of the Aldermen of the City of London, being one of His Majesty's Justices of the Peace in and for the said City and the Liberties thereof, for that the said Accused, in the said city, on divers days between the 1st day of September 1928 and the 1st day of November 1930 did conspire together with other persons, to wit, ... Walker, ... Moncrief, ... Guest, ... Wise, ... Green, ... Spellan, and with other persons unknown to defraud such persons as should thereafter be induced to part with money to the said ..... Walker, ... Moncrief, ... Guest, ... Wise, ... Green, ... Spellan, trading under the name of the Broad Street Press Limited, by false representations that they were then carrying on a genuine business as Stock and Share Brokers, against the Peace, &c.

There Are Therefore to command you, in His Majesty's name, forthwith to apprehend the said Accused, and to bring him before me, or some other of His Majesty's Justices of the Peace for the said City, at the Guildhall Justice Room in the said City, to answer unto the said Charge, and to be further dealt with according to Law. Herein fail not.

Given under my Hand and Seal this 10th day of November, 1930, at the Mansion House Justice Room aforesaid.

W. R. PRYKE (L. S.)
Alderman & J. P. for the City of London.

CITY OF LONDON, *to wit:*

I, the undersigned, one of the Aldermen of the City of London and one of the Justices of the Peace acting in
60 and for the said City, sitting at the Guildhall Justice Room, Hereby Certify that the written and typewritten matter contained in the foregoing nine pages of paper is a true copy of the Information of the Director of Public Prosecutions and the deposition of Arthur Ward in support thereof, laid and sworn before me on the 10th day of November, 1930, and the exhibit marked "A," and of the Warrant issued by me thereon for the apprehension of Arthur J. Klein.

Given under my Hand and Seal at the Guildhall Justice Room aforesaid this 19th day of November, 1930.

W. R. PRYKE,

SEAL
SECRETARY OF STATE
HOME DEPARTMENT

SEAL
ALDERMAN
JUSTICES OF THE PEACE
GUILDHALL JUSTICE ROOM
CITY OF LONDON

EMBASSY OF THE
UNITED STATES OF AMERICA

SEAL OF THE
UNITED STATES OF AMERICA

I, CHARLES G. DAWES, Ambassador Extraordinary and Plenipotentiary of the United States of America in Lon-
62 don, England, hereby certify that the annexed papers being copies of the Warrant of Arrest, the Information and Depositions on which the Warrant was granted, proposed to be used in support of an application for the extradition from the United States of America of Harry Wise, alias J. Factor, alias Guest, alias J. Walker, charged with the crime of receiving certain monies knowing the same to have been obtained under circumstances which amount to misdemeanor, to wit, conspiracy to defraud, contrary to Section 33 (1) of

the Larceny Act, 1916, alleged to have been committed in Great Britain are properly and legally authenticated so as to entitle them to be received in evidence for similar purposes by the tribunals of Great Britain, as required by the Act of Congress of August 3, 1882.

CHARLES G. DAWES,

SEAL
EMBASSY OF THE
UNITED STATES OF AMERICA
LONDON

London, December 13, 1930.

In forwarding the annexed papers, to be used in support of an application for the surrender from the United
63 States of America of Harry Wise, otherwise J. Factor, otherwise Guest, otherwise J. Walker, charged with the crime of receiving certain monies knowing the same to have been obtained under circumstances which amount to misdemeanour, to wit, conspiracy to defraud, contrary to Section 33(1) of the Larceny Act, 1916, committed in Great Britain, I hereby certify that, to the best of my knowledge and belief, the signature "Isidore N. Jacobs" certifying to the correctness of the copies of the warrant of arrest, the information, and depositions on which the warrant was granted, is the signature of Alderman Isidore Nathan Jacobs, one of His Majesty's Justices of the Peace for the City of London, having authority to issue and receive the same, and I further certify that such documents so certified by a Magistrate having jurisdiction in the place where the same were issued and taken, and authenticated by a Minister of State, and sealed with his official seal, would be received in evidence for similar purposes by the tribunals of Great Britain.

E. BLACKWELL,
Assistant Under-Secretary of State for the Home Department.

Whitehall.
11th December 1930.

SEAL
SECRETARY OF STATE
HOME DEPARTMENT

Certified at the Foreign Office for Legalization of the Foregoing Signature. "E. BLACKWELL."

S. GASELEE,
Librarian and Keeper of the Papers for the Secretary of State for Foreign Affairs.

{SEAL FOREIGN OFFICE}

London.
12th Dec. 1930.

CITY OF LONDON, *to wit:*

The information of The Director of Public Prosecutions and the Depositions of CYRIL THOMAS NEWMAN, WILLIAM JOSEPH WALLIS HILL, GLADYS MARION STACY, JOHN THOMAS HEDLEY, FREDERICK WILLIAM TURNER, FRANK STANLEY COCHRANE, AUGUSTUS YOUNG, ROBERT HENDERSON HAMILTON, BENJAMIN BRYCHAN WILLIAMS, CECIL GATES, ROBERT JAMES TRIVETT, FREDERICK WILLIAM MEMORY, FREDERICK WILLIAM JAN, PHILIP NEVILLE D'ESTERRE TAYLOR, LESLIE WILLIAMS, MARGARET WOOLLENDS, FLORENCE FARNCOMBE, LEONARD VICTOR SHORTLANDS, ERNEST FRANK WEST, JANE CRAWFORD CUNNINGHAM, JAMES RICHARDS FRENCH and CLAUD JAMES MATTHEW GWATKIN in support thereof taken on oath this 10th day of December, 1930, before me, the undersigned, one of the Aldermen of and a Justice of the Peace for the City of London, sitting at the Guildhall Justice Room, upon an application for a Warrant against HARRY WISE, otherwise J. FACTOR, otherwise ..... GUEST, otherwise J. WALKER:

(1) For that he on the 14th day of July 1930 and the 26th day of August 1930, received from the Broad Street Press Limited the sums of £15,000 and £70,000 respectively, knowing the same to have been obtained under circumstances which amount to a misdemeanour, to wit, conspiracy to defraud;

(2) For that he on the 3rd day of October 1930, received the sum of £30,000, on the 14th day of October 1930, received the sum of £10,000, on the 16th day of October 1930, received the sum of £20,000, on the 16th day of

October 1930, received the sum of £25,000, on the 17th day of October 1930, received the sum of £40,000, and on the 27th day of October, 1930, received the sum of £6,000, in each case from the Broad Street Press Limited, knowing the same to have been obtained under circumstances which amount to a misdemeanour, to wit, conspiracy to defraud; and

66

(3) For that he on divers days between the 14th day of June, 1930 and the 30th day of September, 1930, received the sum of £242,500 from the Broad Street Press Limited, knowing the same to have been obtained under circumstances which amount to a misdemeanour, to wit, conspiracy to defraud:

In each case contrary to Section 33(1) of the Larceny Act, 1916.

And this Deponent CYRIL THOMAS NEWMAN on his oath saith:

67 I crave leave to refer to an Information sworn by me before Alderman Howell, one of the Aldermen and Justices of the Peace in and for the City of London, sitting at the Guildhall Justice Room, on the 8th day of November 1930, and in addition thereto to say that on the 24th November 1930 an Order of the High Court of Justice was made for the compulsory winding-up of the Company known as Vulcan Copper Mines, Ltd. I have had the conduct of the affairs relating to the winding-up of this Company and from the documents, data and books obtained by the Official Receiver, I find there is no evidence that this Company owned any property in South Africa. The only asset at present known of the Vulcan Copper Mines Limited is cash at Bankers amounting to £28,303. 2. 9 which sum was received by this Company from the Broad Street Press Limited for the acquisition of shares which were later sold to the general public at enhanced prices. I also find from the examination of the books of the Vulcan Copper Mines Limited and of the Broad Street Press Limited that Broad Street Press Ltd. had sold to the public shares which they had acquired from Permanent Investments Ltd. (a Company registered in Guernsey of which Frederick Newbery is one of the two directors, and which company I verily believe is controlled entirely by the said Frederick Newberg) being shares agreed to be allotted to Permanent Investments Ltd. by Vulcan Cop-

per Mines Ltd. as part consideration for the purchase of the properties which the Company purported to possess at the time the shares were sold to the public. The said Frederick Newbery has now been arrested in London and charged with Spellen, Monerieff and Wise with conspiracy to defraud such persons as should be induced to part with money to the Broad Street Press Ltd. for the purchase of shares in the said Vulcan Copper Mines Ltd.; and that during my further in-
68 vestigations of the affairs of the Broad Street Press Limited (in liquidation) I have ascertained that the sums referred to in the first and second charges to this Information were paid by cheques drawn in favour of H. Wise (*i. e.* the said Harry Wise, alias Factor alias Guest alias Walker) upon the banking account of the Broad Street Press Limited at Barclays Bank Limited, 252 to 238, Bishopsgate, London E. C. 2., which sums were in due course credited to the banking account of the said Harry Wise at the North of Scotland Bank Limited, 3 & 4, Lothbury, London E. C. 2., and that the amount referred to in the third charge to this Information was paid by cheque drawn in favour of H. Wise (*i. e.* the said Harry Wise, alias Factor, alias Guest, alias Walker) by cheques upon the banking account of the Broad Street Press Limited at Midland Bank Limited, 49, High Holborn, London W. C. 1. and in due course were credited to the account of the said Harry Wise at the said North of Scotland Bank. The cheques by which these payments were made are now in my possession, photostat copies of which are Exhibit Nos. 4, 5 and 6.

C. T. Newman.

And this Deponent William Joseph Wallis Hill on his oath saith:—

I am an Examiner in the Department of the Official Receiver in Companies Liquidation, London; I have been en-
69 quiring into the affairs of the Rhodesia Border Mining Corporation Limited, and the facts hereinafter stated have come to my knowledge from an inspection of the books, papers and other documents of the Company during the course of my enquiry. An Order of the High Court of Justice in London was made upon the 24th November 1930 for the compulsory winding-up of the Rhodesia Border Mining Corporation Ltd., and, as a result of my investigation of

the books, papers and other documents of the Company, I find that there is no evidence that this Company own any property in South Africa, the only known asset of the Company is cash at bankers (now in the custody of the Official Receiver in Companies Liquidation) amounting to £29,413-18-4 which sum appears from the books of the Rhodesia Border Mining Corporation Ltd to have been received from the Broad Street Press Ltd for the acquisition of shares, which shares were later sold to the public at enhanced prices. I also find from a further examination of the books, papers and other documents of the said Corporation and of the Broad Street Press Ltd, whose affairs are also in the hands of the Official Receiver in Companies Liquidation, London, that the Broad Street Press Ltd had sold to the public shares which they had acquired from the Pretoria Mining Estates Company Limited, a Company registered in the Island of Guernsey, of which Frederick Newbery is one of the Directors, which Company I verily believe is conducted entirely by the said Frederick Newbery. These shares were agreed to be allotted to the Pretoria Mining Estates Co. Ltd by the Rhodesia Border Mining Corporation Ltd as part consideration for the purchase of the properties which the latter Company purported to possess at the time the shares were sold to the public, these shares being what are commonly known as "vendor shares", and so far as is known they are worthless. As a result of my further enquiries, I have ascertained that there have never been any dealings on the Stock Exchange of London in the shares of the Rhodesia Border Mining Corporation Ltd. It is within my knowledge that the said Frederick Newbery has now been arrested in London and charged with Spellen, Moncrieff and Wise with conspiracy to defraud such persons as should be induced to part with money to the Broad Street Press Ltd for the purchase of shares in the said Rhodesia Border Mining Corporation Ltd.

W. J. Wallis Hill.

And this Deponent Gladys Marion Stacy on her oath saith:—

I am married and reside at The Bury, Epping, Essex.

For the past six months I have regularly received, per post, gratis copies of "Finance", a financial journal pub-

lished by the Broad Street Press Ltd., 2, Broad Street Buildings, London, E. C.

Sometime early in July, 1930, I received a letter—since destroyed—signed by Norman D. Spencer, the Editor of
71 "Finance" as above, in which he suggested that I buy "Swears & Wells" ordinary shares, as they then stood at 15/-, and were likely to rise, and without any further communication from him, I instructed him to purchase £300 worth of the said shares, which he did.

On or about 30th July 1930, I received a letter, in which Norman D. Spencer stated that "Swears & Wells" ordinary shares stood at 19/- and would certainly go higher, and he also referred to a Rhodesia Copper Share of 10/- par value, which would shortly be introduced on the London Stock Exchange at a price of not less than 15/-.

On the 31st July 1930, I received the prepaid telegram signed "Finance", and which stated that "Swears & Wells" were then worth 21/- each, and advising me to sell my holding—400—take what profit I had made, and re-invest my original capital (£300) in Rhodesia Border Mining Corporation, Ltd., at 10/- each. I immediately replied giving instructions to re-invest as suggested after selling my holding of "Swears & Wells." I later received the Contract Note which shows that the 400 "Swears & Wells" ordinary realized £420 0. 0, and on or about the 15th August, 1930, I received a letter together with a Statement of Account and a cheque for £119. 5. 6 which represented my profit on the deal. This cheque was signed by "A. S. J. Osborn" and "A. Paris", but I do not remember what Bank it was drawn upon.

I later received another Contract Note, but as I felt
72 uneasy I wrote to Norman D. Spencer, asking him to supply me with particulars of the Company in which I had invested my money, and in reply I received a letter which stated that there was no need for my uneasiness.

On or about 15th August, 1930, I received a letter in which Spencer stated that a group of financiers were endeavoring to obtain control of "Rhodesia Border Mining Corporation Ltd.," and were offering 15/- per share, and impressing upon me not to sell my holding under any circumstances, as I later may receive £2 per share.

On the 20th August, 1930, Spencer phoned me and said he had secured an option upon 2,000 "Rhodesia Borders"

in my name, and I told him I had not £1,000 to invest; he asked me if I could sell some of the shares I already held in other concerns, and which I discussed with him over the 'phone.

On the following day—the 21st I sent Spencer the Certificates of my holdings in various concerns, instructed him to sell same, and with the proceeds to buy "Rhodesia Borders."

These Certificates were for:—

50 Cauldron Potteries Preference.
350 Taylors Cash Chemists (London) Ltd.
300 Henry Glave Ltd., Deferred.
300 Sussex Brick Company Deferred.
240 Beechams Pills Ltd. Deferred.
100 Ebbow Vale Steel Iron & Coal Co.
50 Harland & Woolf Ltd, 1st Preference.
133 Baldwins Ltd. Ordinary.
50 J. Hetherington & Co. Cumulative Preference.
50 Viscose Development Ordinary.
127 Oxendale Deferred.
60 Vickers Ltd. Cumulative Preference.

The whole of these shares were sold with the exception of "J. Hetheringtons," "Viscose Development" and "Oxendale Deferred," which Certificates were returned to
73 me, but the "J. Hetheringtons" were later sold, for £188.14.6. Of this, £187.10. 0 was used to purchase 375 "Rhodesia Borders." I was induced to buy these shares through my conversation with Spencer on the telephone, and he confirmed his suggestions by letter.

With the exception of signing the usual transfers for the shares I had sold. I heard nothing more until the 16th September, 1930, when a man who stated that he was Mr. Norman D. Spencer's Secretary, called upon me, but I was ill at the time, and he was seen by my husband.

He said that the object of his visit was to ascertain if I would care to take up the remainder of the 2,000 "Rhodesia Borders", as there were still 1,025 in my name, the remainder of the option. He was informed however, by my husband, that I had no more money for investment purposes.

On 16th September, 1930, I received the Certificates in respect of my holding of 975 shares in "Rhodesia Border Mining Corporation Ltd".

Later—date unknown—I received a circular letter which stated that Mr. Norman D. Spencer had had to go abroad on account of his health, and that the journal "Finance" had been amalgamated with "Financial Observer" another financial journal, which I have received regularly until a few weeks ago. I have since destoyed the circular letter referred to.

From several inquiries I have since made, I am sure that the shares purchased by me are entirely valueless and that my money has been obtained from me by fraudulent means.

GLADYS M. STACY.

And this deponent JOHN THOMAS HEDLEY, on his oath saith:—

I am a Director of Hedley Motors, Ltd., 610/14, High Road, Chiswick, W., and reside at that address.

About June, 1930, I became acquainted with the name
74 of Norman D. Spencer and his financial publication "Finance", through the medium of Mr. F. S. Cochrane, of 30, Oxford Road, Gunnersbury, W., who informed me that he had had some very successful share transactions with Spencer.

I authorized Mr. Cochrane to forward my name with 5/- subscription to the Editor, "Finance", 2, Broad Street Buildings, E. C., asking for the paper to be sent to me for three months.

At the time I paid my subscription Norman D. Spencer was pressing Mr. Cochrane to buy shares in Vulcan Copper Mines Limited, at 10/- per share. I agreed to buy 250 of these shares in conjunction with Mr. Cochrane, who also purchased 500, making a total of 750.

I gave Mr. Cochrane my cheque for £125, drawn on the Midland Bank Ltd., 281, High Road, Chiswick, W., in favour of the Broad Street Press Ltd., which he forwarded to them requesting that a share certificate for my 250 shares be forwarded to me in my name. The whole of the 750 shares were, however, placed on one certificate in the name of F. S. Cochrane, who has it in his possession.

On 16th July, 1930, a man, who said he was Norman D. Spencer, Editor of "Finance", rang me up on the telephone and said, "If you want to make some money quick, buy "Swears & Wells" shares now, as they now stand at 14/6

and they will go up to 25/- within a month, but if you do buy promise me you will not sell them without my sanction. I can let you have 1,000 of them." I replied, "I am willing to buy 200 of them."

Contract purchase note in respect of these shares I produce which shows the purchasing price at 15/- each; and which were paid for on the 21st July, 1930, by cheque
75 for £154.3. 6, drawn on the Midland Bank Ltd., as above, in favour of the Broad Street Press Ltd.

On 31st July, 1930, I received a prepaid telegram advising me to sell my shares in Swears & Wells and reinvest in Rhodesia Border Mining Corporation Ltd. I replied, "Sell as suggested and reinvest in Rhodesia Border Mining Corporation Ltd."

The sale of Swears & Wells shares realized £209.19. 0. as shown on Contract Sales Notes and on this transaction I made a profit of £55.15. 6.

About 31st July, 1930, I also received a Contract Purchase Note for 400 Rhodesia Border Mining Corporation, Ltd., shares at 10/- each.

About the 13th August, 1930, I received from the Broad Street Press Ltd. a cheque for £9.19. 0. particulars of which I am unable to remember, this amount being the balance due to me from the sale of my shares in Swears & Wells and the purchase of the shares in Rhodesia Border Mining Corporation Ltd.

The latter mentioned share certificate I produce, also my statement of account.

I received letter dated 15th August, 1930, signed Norman D. Spencer, warning me not to sell my share in Rhodesia Border Mining Corporation Ltd., as he would not be surprised if at a later date I should be offered at least £2 per share for them.

Spencer telephoned me on several occasions attempting to influence me to buy more shares in Rhodesia Border Mining Corporation Ltd., but although I emphatically refused to purchase any more of them, on the 21st August, 1930, he sent me a letter and Contract Purchase Note for 600 of the
76 said shares, which he stated he had obtained for me, and on three or more occasions he forwarded me a letter and Statement of Account for £360, requesting me to forward my cheque in payment of same, but this I have not complied with.

On or about the 18th October, 1930, I received a letter from "Finance", stating that for health reasons Norman D. Spencer was relinquishing his Editorship of "Finance."

From several inquiries I have since made, I am sure that the shares purchased by me, are entirely valueless and that my money has been obtained from me by fraudulent means.

J. T. HEDLEY.

And this Deponent FREDERICK WILLIAM TURNER on his
77 oath saith:—

I live at "Holmwood", 32, Shepherd's Hill, Highgate, N. 6.

I am a Draper in business at 14/15, Broadway Parade, Crouch End, N.

In April, 1930, I received per post a gratis copy of "Finance", a financial journal published by the Broad Street Press Ltd., 2, Broad Street Buildings, E. C., and with which journal a financial advisory service is conducted. This was delivered to me weekly at my home address until 24th May 1930, when I received a letter signed by Norman D. Spencer, the Editor of the journal in question, and in which he states that he had been investigating shares in "Edison Bell Ltd." and could guarantee to buy these at 14/- per share, also inviting me to buy.

As a result of this letter, on the 25th May, 1930, I wrote to Spencer and instructed him to buy 200 Edison Bells Ltd. at 14/- each on my behalf. This he did, and I sent him a cheque for £142.18.6. drawn upon my account with Barclays Bank Ltd., Crouch End Branch, in payment thereof. I have since destroyed my cheque, but I can produce the counterfoil.

On 28th May, 1930, I forwarded the sum of 5/- to Spencer, in respect of three months subscription to the journal "Finance", and later received the letter in acknowledgment.

On the 10th June, 1930, I received a letter from Spencer, in which he stated that he was completing investigations regarding a Rhodesian Copper share of 10/- par value, and which would shortly be introduced on the London Stock Exchange at a price of not less than 15/-. On the morning
78 of the following day—the 11th—I received a telegram—since destroyed—signed "Norman D. Spencer", and which said "Sell 200 Edison Bell shares at 23/-, re-invest

in Vulcan Copper Mines of Rhodesia." I immediately replied instructing Spencer to sell my holding of 200 Edison Bell and buy 300 Vulcan Company Mines Ltd. at 10/- each on my behalf.

My 200 Edison Bell realized £230.0.0., less 1/- contract, and the 300 Vulcan Copper Mines Ltd. (Rhodesia) were bought for £150. The balance of my money I received by cheque for £79.19.0. I do not remember the name of the Bank upon which this cheque was drawn, or who signed it.

About the 25th June, 1930, Spencer telephoned me and asked me what shares I held in other concerns, and upon my informing him of same, he advised me to sell them in order to make up my holding in Vulcan Copper up to 2,000 shares. I did not take his advice as regards selling, but as I had a small balance at the bank, I instructed him to buy me a further 100 Vulcan Copper at 10/- each, which he did, and sent me a Contract Note, and for which I paid with a cheque for £50 drawn upon my bank, as above. This cheque I have also destroyed, but I can produce the counterfoil.

On or about 4th July, 1930, I received a letter, in which Spencer states that a certain group of financiers were endeavouring to obtain control of The Vulcan Copper Mines Ltd. (Rhodesia), and he would not be surprised if, at a later date, I might be offered at least £2 per share, and under no circumstances was I to dispose of my holding.

On the 15th July, 1930, I received the Certificates in respect of my holding in The Vulcan Copper Mines Ltd. (Rhodesia).

As a result of a number of further telephone calls from Spencer, I was induced to buy a further 200 Vulcan Copper, for which I paid 12/- per share, and for which I paid by
79 cheque for £120 drawn upon my Bank, as above. This cheque I have also destroyed, but I can produce the counterfoil. I received an acknowledgment of this cheque.

Shortly after this transaction, I began to get suspicious, and wrote to Spencer asking him when Vulcan Coppers would be introduced upon the London Stock Exchange and in reply I received a letter in which he stated that they would be introduced shortly at a very substantial premium.

On the 17th August, 1930, having seen an article in "Truth", which advised persons who had purchased shares in The Vulcan Copper Mines Ltd., to consult their Solicitors, I wrote to Spencer calling his attention to the article, and he replied saying that the Certificate in respect of my last transaction,

i. e., 200 shares, would be sent to me directly it was received by him. I later received this certificate.

On or about 18th October, 1930, I received the circular letter in which it is stated that owing to reasons of health, Norman D. Spencer had found it necessary to relinquish his Editorship of "Finance", which journal had been merged with the "Financial Observer", which paper I would receive in future.

On 25th October, 1930, I wrote to the Secretary of The Vulcan Copper Mines Ltd., 25 Victoria Street, London, S. W. 1, asking him if he could give me any information as to the
80 progress of the mines in question, to which I received a reply which stated that the progress was very satisfactory.

From several enquiries I have since made, I am sure that the shares purchased by me are entirely valueless and that my money has been obtained from me by fraudulent means.

F. W. TURNER.

And this Deponent FRANK STANLEY COCHRANE on his oath saith:—

I am a Retired Civil Servant and live at 30, Oxford Road, Gunnersbury, W.

About November, 1929, I commenced to receive per post at my address 30, Oxford Road, Gunnersbury, W., a weekly paper called "Finance" which was sent gratis and was
81 published by Norman D. Spencer. The journal also contained the fact that the publishers had an advisory service with regard to stocks and shares.

On the 4th January, 1930, I received a letter from Norman D. Spencer, advising me to purchase "Phantestra" shares at about 2/- each. On this advice I purchased 500 of these shares at 2/-, through Messrs. Lloyds Bank Ltd., 34, Hammersmith Road, W.

On the 9th January, 1930, I received a further letter from Spencer advising me to sell these shares, which I did, also through Lloyds Bank Ltd., and made a profit on this transaction of £32.13.2.

About this time I forwarded a subscription of 30/- to "Finance" for the paper to continue to be sent to me as heretofore.

On the 6th March, 1930, I received a letter and prospectus

advising me to purchase Asbestos & Holdings Trust Ltd. shares. I purchased 1,000 of these shares for £250 on the 10th March, in payment for which I sent my cheque—which I have since destroyed—drawn on Lloyds Bank Ltd., 34, Hammersmith Road, in favour of the Broad Street Press Ltd., for £250.

On the 21st March, 1930, I received a letter from Spencer strongly advising me not to sell these shares as they may later reach 20/- per share.

In consequence of a further letter from Spencer, I purchased a further 500 of these shares at 6/- per share.

On the 7th April, 1930, I forwarded my cheque—which
82 has also been destroyed—for £150, drawn on my Bank, as above, and also in favour of the Broad Street Press Ltd.

On the 26th May, 1930, I received a letter, which I have since lost or mislaid, enclosing a Contract Purchase Note for 250 Edison Bell Ltd shares at 14/- total value including fees £178.9.9. Although I had not previously instructed him to purchase these shares, I accepted them on the understanding that the transaction be completed through my Bank, Messrs. Lloyds Bank Ltd., 21 Austin Friars, E. C., who I instructed to complete the transaction.

On the 12th June, 1930, I received a Contract Sales Note notifying me that these shares had been sold at 23/- per share, realizing £287.9.0. for settlement on the 26th June, 1930, on which date I received a complete Statement of Account shewing a net profit of £108.19.3, and for which I received a cheque for that amount, although I later ascertained from my Bankers that the shares had never been paid for as the Broad Street Press Ltd. had not produced the Share Certificate.

On or about 26th June, 1930, a man called upon me at my address stating he had been sent by Mr. Norman D. Spencer to strongly advise me to buy shares in Vulcan Copper Mines Ltd., he assured me that this would only be a sixty days transaction after which I should be able to sell out at a substantial profit. I told him I would consider the proposition.

On the 28th June, 1930, I sent a telegram to Spencer to reserve 750 Vulcan Copper Mines Ltd. shares.

On the 30th June, 1930, I received a Contract Purchase Note for £375.

On the 30th June, 1930, I forwarded two cheques in payment of these shares.

On the 12th August, 1930, I received Share Certificate made out in my name.

As I was in need of money I, on several occasions, wrote to Norman D. Spencer requesting him to sell the shares I held in Asbestos & Holdings Trust Ltd. and Vulcan Cop-
83 per Mines Ltd., but I received no sastisfaction. I received a letter informing me that Norman D. Spencer for health reasons was relinquishing his Editorship of "Finance."

From several enquiries I have since made, I am sure that the shares purchased by me are entirely valueless, and that my money has been obtained from me by fraudulent means.

FRANK S. COCHRANE.

And this Deponent AUGUSTUS YOUNG of Warnford Court Throgmorton Street in the City of London a Member of the London Stock Exchange on oath says:—

I first knew of the existence of the Broad Street Press Limited on 17th April, 1930, through Guest whom I previously knew as Wise.

On 25th March, 1930, Guest gave me instructions to buy and sell certain quoted securities. He instructed me that con-
84 tracts were to be made out to A. J. Klein who was also an Outside Broker and forwarded to 42 Cornhill. This continued until 16th April, 1930. On the 17th April, 1930, Guest notified my office verbally I believe that in future transactions for the buying and selling of stocks and shares were to be carried out in the name of a Company called Broad Street Press Limited. This was the first intimation my office or I had of the existence of that Company. I have not received any instructions from anyone named Walker or Green.

I believe that practically all instructions to my office came over the telephone.

After 17th April, 1930, my office no longer sent to Cornhill.

From March, 1930, to October 3rd, 1930, including A. J. Klein and Broad Street Press Limited purchases were approximately £95,000.0.0 and sales approximately £650,000.0.0. All of these were of stocks quoted on the Stock Exchange.

Neither my office nor I knew of the Broad Street Press Limited in 1929. Wise asked me to obtain for him Stock Ex-

change Mutual Tickets in April, 1929. I did so and received payment from him. He paid me for them.

I did not commence doing business for Broad Street Press Limited until 17th April, 1930, and there is therefore no
85 entry in my books relating to Broad Street Press Limited before that date. I never received the specific sum of £1,112.12.7 on 18th March, 1930, or on any other date, from Broad Street Press Limited.

The amount of £30.7.0 was received from A. J. Klein and was the difference between the sale of £1,000 London and North Eastern Deferred Stock for £103.19.0 and the purchases of 100 Sulphide Corporation £75.5.6 and 100 Harlan and Wolff 6% Preference Shares £59.0.6. The cheque was received 24th April, 1930.

Cheques received by me for £1,367.9.7 and £380.3.9 were for the differences due on sales and repurchases of Triplex Safety Glass Shares. Cheque for £24,543.10.0. This was for the purchase of 2,500 Radio Corporation shares by Guest and afterwards sold on his instructions in June, 1930.

My office paid Broad Street Press Limited various amounts totalling as follows: May, 1930, £63,585.14.8. June, 1930, £35,927.6.2. July, £75,952.9.3. August, £161,481.19.1. September, £106,140.0.8. October, £87,854.19.11. These are balance payments. These payments were for delivery of stocks sold by them to the Market less purchases from the Market made by them.

On the 7th July, 1930, my office paid Broad Street Press Limited £1,011.1.4. and on the 8th July, 1930, £7,037.12.0= £8,048.13.4 this was for sale and delivery of stocks. I know and can trace nothing of any receipts for the amounts in question.

It has never been the custom of my office to give receipts for cheques unless asked for.

From 25th March, 1930 to 16th April, 1930, lists of Certificates for shares already sold were sent me by Klein from Cornhill accordance with the Contracts rendered by
86 Guest's instructions. They were not instructions of Broad Street Press Limited who gave no instructions until the 17th April, 1930, when I first learnt of the existence of the Broad Street Press Limited. After that date the contracts were sent to Broad Street Press Limited at Broad Street Buildings.

I attach copies of the lists from each and my acknowledgments.

Neither I nor my office knew what connection there was between Cornhill and Broad Street Place or Broad Street Buildings.

The receipts of 30th July, 1930, 7th and 25th August, 1930, for War 5% Bonds were for War Bonds purchased or exchanged for Guest on his instructions during the months of July and August, 1930. The receipt signed by Spellen was for £5,000 Bonds handed to him for and on behalf of Guest. The others were held by my office for a short time on Guest's instructions for safe custody until he gave instructions to send them to the Forman-State National Bank Chicago account Mrs. L. Cohen. I have already forwarded to the Official Receiver copies of all documents in connection with the transaction.

The transactions carried out on the instructions of the Broad Street Press Limited are being copied in detail at the request of the Official Receiver. The entries are of great length but will be completed at the earliest possible moment. They all relate to quoted Stocks and shares.

I know of no leakage of any cash.

The whole of the transactions with Broad Street Press Limited were ordinary Stock Exchange transactions car-
87 ried out by me strictly in accordance with the Rules of the Stock Exchange. At no time was I ever concerned with any share not quoted on the stock Exchange Official Lists.

I have no letters receipts or documents other than those copies of which have been supplied to the Liquidator or are sent herewith.

On or about the 3rd October, 1930, I saw a statement in the Daily Press that Broad Street Press Limited were selling unquoted Shares. I thereupon declined to transact any new business for them.

After this I was requested by Guest to remit to the Broad Street Press Limited the amount of sales or stocks outstanding. I told him I could not pay the Broad Street Press Limited the balance of their account until the Stocks were delivered.

A few days before the 14th October, 1930, Klein saw me and told me that if I settled up with the Broad Street Press Limited before all the Stocks were delivered to me by the

Broad Street Press Limited he would indemnify me by putting me in funds.

On or about the 14th of October, 1930, I received from Klein a cheque for £24,000 and on or about the 18th October, 1930, I received from him a cheque for £18,278.12.2.

I was to credit his account when the deliveries were made.

I remitted to the Broad Street Press Limited £25,485.7.5 on the 11th October, 1930, and £16,793.4.9 on the 16th of October, 1930, in pursuance of this arrangement and I have had to buy back various stocks which they have not delivered.

I have communicated with the Official Receiver regarding these Stocks.

I identify photograph—EXHIBIT 1—as the photograph of the person I knew as Mr. Wise and later as Mr. Guest who
88 was connected with the Broad Street Press Limited. I also identify photograph EXHIBIT 2 as the photograph of Arthur Klein.

With reference to the item of £1,112.12.7 on the 18th March, 1930, I have an entry in my Books as follows:—"£1010.4.7 and £102.8.0 18th March, 1930, for two items of Stock bought for two friends of H. Wise and paid for by him."

AUGUSTUS YOUNG.

And this deponent ROBERT HENDERSON HAMILTON on his oath saith:—

I am the Accountant of the North of Scotland Bank Limited, 3 and 4 Lothbury, London, E. C. 2.

On the 1st day of November, 1928, a Banking Account was opened at that Branch of my Bank in the name of Harry Wise, and I identify the photograph EXHIBIT 1 as the
89 person who opened that banking account. I have prepared a certified copy of the account of the said Harry Wise, which shews that the sums of £15,000 and £70,000 were credited to the account on the 14th July, 1930, and the 26th August, 1930, respectively and that between the 3rd October, 1930, and the 27th October, 1930, there was credited the six sums amounting to £131,000 in each case by cheques drawn upon the banking account of the Broad Street Press Limited at Barclays Bank Limited, Bishopsgate, aforesaid, and that EXHIBIT 4 is a photostatic copy of the two cheques, and EXHIBIT 5 is a photostatic copy of the six cheques by which such payments were made.

The account further shews that between the 14th June, 1930, and the 30th September, 1930, there was paid to the credit of the account of the said Harry Wise the sum of £242,500 which sum was received by means of seven cheques drawn upon the banking account of the Broad Street Press Limited at the Midland Bank Limited aforesaid, and EXHIBIT 6 is a photostatic copy of the seven cheques by which such payment was received.

There is now standing to the credit of the said Harry Wise the sum of £32.4.0, and it appears from the certified extract that the amount passing through that account for the period 6th January, 1930, to the 3rd October, 1930, was in excess of £1,200,000.

R. H. HAMILTON.

And this deponent BENJAMIN BRYCHAN WILLIAMS on his oath said:—

I am a Cashier in the employment of Barclays Bank Limited, 232 to 238 Bishopsgate, London, E. C. 2. I have prepared a certified copy of the account of the Broad Street
90 Press Limited at my Bank and I have examined it with the books of the Bank, and it is a true copy.

The account shews (*inter alia*) that on the 14th July, 1930, and the 26th August, 1930, there were paid to the North of Scotland Bank Limited, by cheques drawn upon the account of Broad Street Press Limited in favour of H. Wise, the sums of £15,000 and £70,000 respectively, and EXHIBIT 4 is a photostatic copy of the two cheques by which such payments were made.

The account also shews that between the 3rd October, 1930, and the 27th October, 1930, there was paid to the said North of Scotland Bank Limited, by cheques drawn upon the account of Broad Street Press Limited in favour of H. Wise, the sum of £131,000, and EXHIBIT 5 are photostat copies of the six cheques by which such payments were made.

B. B. WILLIAMS.

And this deponent CECIL GATES, on his oath saith:

91 I am a Clerk in the employment of the Midland Bank Limited, 49 High Holborn, London, W. C. 1.

I have prepared a certified copy of the account of the Broad Street Press Limited at my Bank; I have examined it with the Books of the Bank and it is a true copy.

The account shews (*inter alia*) that between the 14th June, 1930, and the 30th September, 1930, there was paid to the North of Scotland Bank Limited, by cheques drawn upon the account of Broad Street Press Limited in favour of "H. Wise or Cash", the sum of £242,500, by means of seven cheques photostat copies of which are Exhibit 6.

C. GATES.

And this deponent ROBERT JAMES TRIVETT on his oath saith:

I am a valet in charge of Flat 9 at 48, Grosvenor Square, London, W., and, on the 1st December 1929, this flat was let to the said A. J. Klein, whose photograph is Exhibit 2.

92 About a fortnight after Klein had taken possession, he was joined at this flat by a person whose name I was told was a Mr. Fraser, and his wife and child. I continued my duties as valet both to the said Klein and Fraser, and, during the course of a conversation, Fraser said to me, "You know my name is not Fraser but Factor; that was our stage name", and the photograph, Exhibit 4, is the photograph of the person who came to 48, Grosvenor Square, London, W., in the name of Fraser. Fraser left the flat about the 3rd October 1930, and Klein on the 20th October 1930; neither of them said where they were going, and I have not seen them since. During the course of my duties at 48, Grosvenor Square, London, W., I often went into the flat occupied by Klein and Fraser, and when there I have frequently seen correspondence lying on the table addressed to "J. Factor".

R. J. TRIVETT.

And this deponent FREDERICK WILLIAM MEMORY on his oath saith:—

I am a Journalist and for some years I have been investigating the activities of people who are alleged to have been carrying on what are known as "Share pushing operations" in the British Isles. I know a man named Jacob Factor, whose photograph is EXHIBIT 1. On two occasions, since June of this year, I have had conversations with him when he admitted quite freely that his name was Jacob Factor, and amongst things that were discussed was the action that he was proposing to start in this country for libel against one of the London daily newspapers.

93

F. W. MEMORY.

And this deponent FREDERICK WILLIAM JAN on his oath saith:

I am a partner in the firm of Hillman & Co. Printers and Publishers of 2 Wine Office Court, London, E. C. and in the month of August 1928, in consequence of a telephonic communication, I called at the Offices of the Broad Street Press Ltd. of 2 Broad Street Buildings, London, E. C., and went to the second floor and there I saw a man who said his name was Walker, whose photograph is EXHIBIT 1. Walker informed me that he was about to start a financial journal which was to be known as the "City News" and asked if I could arrange for the printing of this journal; I told him I could and received an order from him for about 100,000 copies weekly. The actual printing of this journal was done by the Argus Press Ltd. of Tudor Street, London, E. C. and after about 4 weeks, Walker sent for me and complained that the printing was unsatisfactory and asked me to arrange for other people to do it. My firm continued to be associated with the "City News" which later became the "Finance" until the Broad Street Press Limited went into liquidation in October of this year, and during the course of my association with the Broad Street Press Limited, I frequently came into contact with the said Walker who was continuously in attendance at the Offices and conducting the business of that Company. In addition to Walker, I frequently saw Klein, whose photograph is EXHIBIT 2, at the Offices of the Company.

94

F. W. JAN.

95 And this deponent PHILIP NEVILLE D'ESTERRE TAYLOR on his oath saith:—

I am a director of the Aldwych Advertising Co., Ltd., Astor House, Aldwych, London, W. C., and in November 1928 I there met a man whom I knew as Jack Walker, whose photograph is EXHIBIT 1. In the month of April 1929, Walker suggested to me that I should write some advertising articles for the "City News". I accepted his suggestion and in consequence I attended the office of J. Wise at 2, Broad Street Place, London, E. C., where I was introduced by the said Walker to Spellen, who, he informed me was the Editor of the "City News".

PHILIP N. TAYLOR.

96 And this Deponent LESLIE WILLIAMS on his oath saith:—

I am a representative of Messrs. William Lee & Co., Printers, of Clifton House, Worship Lane, London, E. C., and in the early days of October 1928, in response to a telephone call, I went to the offices of the Broad Street Press Ltd., and there saw Spellen and a man named Green, whose photograph is EXHIBIT 3; the latter of whom introduced me to another man named J. Walker, whose photograph is EXHIBIT 1. The object of my visit was to discuss the question of the production of a financial journal called the "City News", and a discussion then took place between Spellen, Green and Walker, and at the conclusion of the interview Walker, who had taken a prominent part in the general instructions as to the form and character of the paper to be printed, instructed me to commence the printing of the said "City News". The title of this journal was subsequently altered in June 1929 to "Finance, incorporating the City News and Stock Exchange Observer", and the publication of that journal continued until the 15th October 1930.

L. WILLIAMS.

97 And this deponent MARGARET WOOLLENDS on her oath saith:—

In September 1928, I obtained a position as bookkeeper to J. Wise of 2, Broad Street Buildings, E. C. 2., and amongst the persons who were constantly in attendance at those premises and conducting the business there was a person by the name of Walker, whose photograph is EXHIBIT 1. There was also at those premises a man named Spellen who appeared to act under the instructions and upon the suggestions of the said Walker and with the exception of periodical visits abroad, Walker attended the offices regularly. During the absence of the said Walker, letters were frequently sent from the said Spellen addressed to J. Factor in Paris, and on more than one occasion I have answered telephone calls from Paris enquiring for Spellen and the voice I recognised on the telephone was that of the said Walker. In addition to Walker and Spellen in those offices, I often saw a man named Klein, whose photograph is EXHIBIT 2, and he was constantly there in consultation with the said Walker.

M. WOOLLENDS.

98 And this Deponent FLORENCE FARNCOMBE on her oath saith:—

I was first employed by the Broad Street Press Ltd., in December 1929, and I continued to work there until about March 1930, when I was instructed by Mr. Moncrieff, the Staff Manager, to go to 42, Cornhill, London, E. C., where I saw Spellen, Guest (whose photograph is EXHIBIT 1) and a man named Green (whose photograph is EXHIBIT 3); each of these persons had rooms on the first floor. While I was there, there was put upon the door "Jackson & Co. Share & Investment Brokers". About Easter 1930, the whole of the staff from 42, Cornhill, London, E. C., returned to 2, Broad Street Buildings, London, E. C., and to these premises the said Guest and Green also came. I frequently saw Guest, and I formed the impression that he was the head of the business that was carried on as all other people took their instructions from him. I also saw the said Arthur J. Klein, whose photograph is EXHIBIT 2, frequently at these premises.

F. FARNCOMBE.

99 And this deponent LEONARD VICTOR SHORTLANDS on his oath saith:—

I was first employed by the Broad Street Press Limited in March 1930 as a junior clerk and office boy, and, upon engagement, I was instructed by Mr. Monerieff of the Broad Street Press to report for duty to 14 Copthall Avenue, London, E. C. and to enquire for Mr. Spellen. I accordingly took up my duties at 14 Copthall Avenue, and shortly afterwards a room on the first floor was occupied by the said Arthur Klein whose photograph is EXHIBIT 2. I stayed at 14 Copthall Avenue, London, E. C. until about the end of April when I was instructed to go to 42 Cornhill, London, E. C. At the same time there came to these offices, in addition to Mr. Spellen, and the said Arthur J. Klein two other persons, whom I knew of the names of Green and Guest. EXHIBIT 3 is a photograph of the person who was there as Green, and EXHIBIT 1 is a photograph of the person whom I knew as Guest, and the rooms occupied by these people were on the first floor, and Klein, Green and Guest occupied a large room there. In May or June 1930 the staff from 42 Cornhill was removed to 2 Broad Street Buildings, London, E. C. that is the address of the Broad Street Press Limited, and Guest, Green and Klein occupied a room there that was marked "Broad Room" and they were there continuously. Part of my duties at 2 Broad Street Buildings, London, E. C. was to answer telephone calls, and whenever calls came in for Norman D. Spencer, the editor of "Finance" my instructions were to put those callers through to the said Guest or Green, and, if people called personally, I showed them into the room occupied by the said Guest and Green. Guest continued to attend the offices daily until about the 13th October 1930 when he left, and I have not seen
100 him since. Green attended until about a fortnight later, but since then I have also not seen him.

V. SHORTLANDS.

101 And this deponent ERNEST FRANK WEST, on his oath saith:—

On the 10th March 1930 I was engaged by Broad Street Press, Ltd., as a clerk and subsequently became Manager of the Stock and Share Department of the Broad Street Press,

Ltd., and was employed by Broad Street Press, Ltd., first at 14, Copthall Avenue, London, E. C., subsequently at 42, Cornhill, London, E. C., and finally at the offices of the Broad Street Press Ltd., at 2, Broad Street Buildings, London, E. C., and during my employment at these addresses I frequently came into contact with the said Klein, whose photograph is EXHIBIT 2, Guest, whose photograph is EXHIBIT 1, and Green and other persons, and from Guest and the other persons I received orders and instructions as to my duties.

ERNEST F. WEST.

102 And this Deponent JANE CRAWFORD CUNNINGHAM on her oath saith:—

In April 1930, I obtained employment as a shorthand typist at the offices of the Broad Street Press Ltd., 2, Broad Street Buildings, London, E. C., and I commenced my duties upon the 9th April 1930. For about 3 weeks I worked at 2, Broad Street Buildings under the supervision of the said Moncrieff. An additional staff came from 42, Cornhill, London, E. C., and the majority of the staff at 2, Broad Street Buildings, London, E. C., were then transferred to 2 Broad Street Place, London, E. C., and amongst the persons whom I frequently saw at 2, Broad Street Buildings was Spellen, Guest (whose photograph is EXHIBIT 1), and Harry Green (whose photograph is EXHIBIT 3). After about three weeks at 2, Broad Street Buildings, London, E. C., I was transferred to 2, Broad Street Place, London, E. C., and in the course of my duties I found that in October 1930, a large number of transfers of shares in sound industrial stocks came into the room, in which I was employed, to be sent to the respective Companies for registration in the name of Samuel Fraser, 48, Grosvenor Square, London, W., and with each transfer a letter was sent to the Companies concerned asking for certification and also asking that the transfer receipts be sent to the Broad Street Press Ltd., 2, Broad Street Buildings, London, E. C., in due course. I distinctly remember this incident because the whole of the stock transfers were being put into the name of one man, viz. Samuel Fraser, and that the sum involved amounted to many thousands of pounds. In the room where I sat at 2, Broad Street

Place, London, E. C., there was a safe and on more than one occasion I have seen a man, whose photograph is
103 EXHIBIT 2, and whom I knew as Klein, go to that safe and open it and inspect the contents thereof.

J. C. CUNNINGHAM.

104 And this deponent JAMES RICHARD FRENCH on his oath saith:

In July 1930 I obtained a position as clerk with the Broad Street Press Limited at No. 2 Broad Street Buildings, London, E. C. Amongst the persons whom I saw there, and from whom I received instructions, and who appeared taking an active part in the conduct of the business and in the correspondence, were people whom I knew as Klein, whose photograph is EXHIBIT 2, Guest, whose photograph is EXHIBIT 1 and Green whose photograph is EXHIBIT 3. From these offices was published a paper called "Finance" most of the editorial work of which was done by Spellen, who acted upon every suggestion that was made to him as to what should be put in the paper from Guest. I continued in the employment of the Broad Street Press Limited until the offices were closed down on the 24th October 1930, and during the whole of the time I was employed there I constantly saw the said Klein, Guest and Green at those premises.

JAMES R. FRENCH.

105 And this deponent CLAUD JAMES MATTHEW GWATKIN on his oath saith:—

I am a Solicitor of the Supreme Court of Judicature in England and a Professional Clerk in the Department of the Director of Public Prosecutions 1 Richmond Terrace, London, S. W. 1, and am well acquainted with the Criminal Law of England. Section 33 (1) of the Larceny Act 1916 provides (*inter alia*) that every person who receives any property knowing the same to have been stolen or obtained in any way whatsoever under circumstances which amount to a felony or misdemeanour shall be guilty of any offence of the like degree (whether felony or misdemeanour) and on conviction thereof (b) in the case of misdemeanour to penal servitude for any term not exceeding 7 years. And by a deci-

sion of the Court of Criminal Appeal in England in the case of *The King versus Kutas and Jerichower* (17 Criminal Appeal Reports 179) it was held that conspiracy to obtain property by fraud is a misdemeanour within the meaning of "circumstances which amount to felony or misdemeanour" in Section 33 (1) of 6 and 7 Geo. 5, c. 50, the Larceny Act, 1916.

C. J. M. GWATKIN.

The foregoing depositions contained in this and the preceding pages Nod. 3 to 40 inclusive, were severally taken and sworn before me at the Guildhall Justice Room in the City of London this 10th day of December, 1930.

ISIDORE N. JACOBS,
Alderman and Justice of the Peace
for the City of London.

SEAL
SECRETARY OF STATE
HOME DEPARTMENT

SEAL
ALDERMAN
JUSTICE OF THE PEACE
GUILDHALL JUSTICE ROOM
CITY OF LONDON

106 EXHIBIT 1, PHOTOGRAPH OF JOHN FACTOR.

107 EXHIBIT 2, PHOTOGRAPH OF KLEIN.

108 EXHIBIT 3, PHOTOGRAPH OF GREEN.

109 Exhibit 4.

(Check stamped: North of Scotland Bank Limited 3-4, Lothbury, London, E. C. 2.)

R
No. W266616

T. 2.
London, July 14th 1930.
E. C. 2

BARCLAYS BANK LIMITED
232-8, Bishopsgate, E. C. 2.
Head Office: 54, Lombard, Street, E. C. 3.

(2d stp.)

Pay H. Wise ..... or Order
Fifteen Thousand Pounds .....
£15,000
T

Broad Street Press Ltd.
Albert S. J. Osborn
A. Paris } Directors

This Cheque Requires Endorsement.

(Stamped: Barclays Bank, Limited
Paid 14 Jul 1930)

On the reverse side endorsed: "H. Wise."

EXHIBIT 4—CONTINUED.

110

(Cheek Stamped: North of Scotland Bank Limited 3-4, Lothbury, London, E. C. 2.)

R

No. W366527

211

London, August 26, 1930.
E. C. 2

BARCLAYS BANK LIMITED
232-8, Bishopsgate, E. C. 2.
Head Office: 54, Lombard, Street, E. C. 3.

(2d stp.)

Pay H. Wise Esq. or Order
Seventy thousand Pounds
£70,000—0—0

T

Broad Street Press Ltd.
A. PARIS
ALBERT S. J. OSBORN } Directors

This Cheque Requires Endorsement.

(Stamped: Barclays Bank, Limited
Paid 26 Aug 1930)

On the reverse side endorsed: "H. Wise."

Exhibit 5.

111

(Check Stamped: North of Scotland Bank Limited 3 4, Lothbury, London, E. C. 2.)

R
No. W414936

211
London 14/10 1930.
E. C. 2

BARCLAYS BANK LIMITED
232-8, Bishopsgate, E. C. 2.
Head Office: 54, Lombard, Street, E. C. 3.

(2d stp.)

Pay H. Wise Esq. or Order
Ten thousand pounds only
£10,000 —

T

Broad Street Press Ltd.
A. Paris
Alaker S. J. Osmond } Directors

This Cheque Requires Endorsement.

(Stamped: Barclays Bank, Limited
Paid 14 Oct 1930

On the reverse side endorsed: "H. Wise."

EXHIBIT 5 CONTINUED.

112

(Check Stamped: North of Scotland Bank Limited 3-4, Lothbury, London, E. C. 2.)

"Effects not cleared"

R

No. W415963

211

London 15 Oct. 1930.
E. C. 2

BARCLAYS BANK LIMITED
232-8, Bishopsgate, E. C. 2.
Head Office: 54, Lombard, Street, E. C. 3.

(2d stp.)

Pay H. Wise Esq. or Order
Twenty thousand pounds
£20,000
T

Brond Street Press Ltd.
A. Paris
Alaker S. J. Osborn } Directors

This Cheque Requires Endorsement.

(Stamped: Midland Bank Limited, Coleman Street & Moorgate, E. C. 2 A/c North of Scotland Bank, Ltd. 3-4 Lothbury, E. C. 2. Cleared through H. O.)

(Stamped: Barclays Bank, Limited Paid 16 Oct 1930)

On the reverse side endorsed: "H. Wise."

EXHIBIT 5—CONTINUED.

113

No. W416006
R

(Check Stamped: North of Scotland Bank Limited 3-4, Lothbury, London, E. C. 2.)

211

London 16 Oct 1930.
E. C. 2

BARCLAYS BANK LIMITED
232-8, Bishopsgate, E. C. 2.
Head Office: 54, Lombard Street, E. C. 3.

(2d stp.)

Pay H. Wise Esq. ..... or Order
Twenty-five thousand pounds only ——————
£25,000

T

Broad Street Press Ltd.
A. PARIS
ALBERT S. J. OSBORN } Directors

This Check Requires Endorsement.

(Stamped: Barclays Bank, Limited
Paid 16 Oct 1930)

On the reverse side endorsed: "H. Wise."

EXHIBIT 5—CONTINUED.

114

(Check Stamped: Midland Bank Limited, Coleman Street and Moorgate, E. C. 2. A/o North of Scotland Bank Ltd. 3-4, Lothbury, E. C. 2.)

R

No. W416029

211

London, 17 Oct 1930.
E. C. 2

BARCLAYS BANK LIMITED
232-8, Bishopsgate, E. C. 2.
Head Office: 54, Lombard Street, E. C. 3.

(2d stp.)

Pay H. Wise Esq. ..... or Order
Forty thousand pounds only ——————————
£40,000 ——

T

Broad Street Press Ltd.
A. PARIS
ALBERT S. J. OSBORN } Directors.

This Check Requires Endorsement.

(Stamped: Barclays Bank, Limited
Paid 17 Oct 1930)

(Stamped: Midland Bank Ltd.
Cleared through H-O)

On the reverse side endorsed: "H. Wise."

Exhibit 5. Continued.

115

(Check Stamped: North of Scotland Bank Limited 3 4, Lothbury, London, E. C. 2.)

R

No. W414833.

211

London, October 3rd 1930
E. C. 2

BARCLAYS BANK LIMITED
232 S, Bishopsgate, E. C. 2
Head Office 54, Lombard Street, E. C. 3.

(2d stp.)

Pay H. Wise Esq. or Order
Thirty Thousand Pounds
£30,000 0. 0

T

Broad Street Press Ltd.
A. Paris
Albert S. J. Osmons } Directors

This Check Requires Endorsement.

(Stamped: Barclays Bank, Limited
Paid 30 Oct 1930)

On the reverse side endorsed: "H. Wise."

Exhibit 5 Continued.

116

(Check Stamped: North of Scotland Bank Limited 3, 4, Lothbury, London, E. C. 2.)

R
No. W416086

211
London, October 27 1930.
E. C. 2

BARCLAYS BANK LIMITED
232 B, Bishopsgate, E. C. 2.
Head Office: 54, Lombard Street, E. C. 3.

(2d stp.)

Pay H. Wise or Order
Six thousand pounds
£6,000 —

Broad Street Press Ltd.
A. Paris
Albert S. J. Osborn } Directors
This Check Requires Endorsement.

(Stamped: Barclays Bank, Limited
Paid 27 Oct. 1930)

On the reverse side endorsed: "H. Wise."

Exhibit 6.

117

BROAD STREET PRESS LIMITED

G.13786

E/8

June 13th 1930.

MIDLAND BANK LIMITED
Gray's Inn Branch, 49, High Holborn, W. C. 1.

(2d stp.)

Pay H. Wise Esq. or Order
Forty Eight thousand five hundred pounds
£48,500 0 0.

M

For and on Behalf of
Broad Street Press Ltd.
A. Paris
Albert S. J. Osborn } Directors

(Stamped: Midland Bank Limited)
A c. North of Scotland Bank
Limited, Lothbury, London E. C. 2
Coleman Street and Moorgate.
Cleared through H. O.)

On the reverse side endorsed: "H. Wise."

EXHIBIT 6.—CONTINUED.

118

(Check Stamped: North of Scotland Bank Limited 3-4, Lothbury, London, E. C. 2.)

G.14744

E/8

July 14th 1930.

MIDLAND BANK LIMITED
Gray's Inn Branch, 49, High Holborn, W. C. 1.

(2d stp.)

Pay H. Wise ..... or Order
Ten thousand pounds
£10,000/-/-.

M

Brond Street Press Ltd.
A. PARIS
ALBERT S. J. OSBORN } Directors

(Stamped: Paid 24 Jul 1930)

On the reverse side endorsed: "H. Wise."

EXHIBIT 6.—CONTINUED.

119

(Check Stamped: North of Scotland Bank Limited 3-4, Lothbury, London, E.C. 2.)

G.14487

E/8

24th July 1930.

MIDLAND BANK LIMITED
Gray's Inn Branch, 49, High Holborn, W. C. 1.

(2d stp.)

Pay H. Wise Esq. ..... or Order
Thirty thousand pounds only ——————————
£30,000—0—0

M

Brond Street Press Ltd.
A. PARIS
ALBERT S. J. OSBORN } Directors

(Stamped: Paid 24 Jul 1930)

On the reverse side endorsed: "H. Wise."

EXHIBIT 6.—CONTINUED.

120

(Check Stamped: North of Scotland Bank Limited 3-4, Lothbury, London, E. C. 2.)

G.14520

E/8

July 25 1930

MIDLAND BANK LIMITED
Gray's Inn Branch, 49, High Holborn, W. C. 1.

(2d stp.)

Pay H. Wise Esq. ..... or Order
Twenty Thousand Pounds ——————————
£20,000—0—0

M

Broad Street Press Ltd.
A. PARIS
ALBERT S. J. OSBORN } Directors

(Stamped: Paid 25 Jul 1930)

On the reverse side endorsed: "H. Wise."

EXHIBIT 6.—CONTINUED.

121

(Check Stamped: North of Scotland Bank Limited 3-4, Lothbury, London, E. C. 2.)

G.14810

E/8

August 5 1930

MIDLAND BANK LIMITED
Gray's Inn Branch, 49, High Holborn, W. C. 1.

(2d stp.)

Pay H. Wise Esq. ..... or Order
Fifty Thousand Pounds
£50,000—0—0

M

Broad Street Press Ltd.
A. PARIS } Directors
ALBERT S. J. OSBORN }

(Stamped: Paid 5 Aug 1930)

On the reverse side endorsed: "H. Wise."

EXHIBIT 6.—CONTINUED.

122

(Check Stamped: North of Scotland Bank Limited 3-4, Lothbury, London, E. C. 2.)

G.15455

E/8

August 19th 1930.

MIDLAND BANK LIMITED
Gray's Inn Branch, 49, High Holborn, W. C. 1.

(2d stp.)

Pay H. Wise Esq. ..... or Order
Seventy Five thousand pounds ——————————
£75,000—0—

M

Broad Street Press Ltd.
A. PARIS
ALBERT S. J. OSBORN } Directors

(Stamped: Paid 19 Aug 1930)

On the reverse side endorsed: "H. Wise."

EXHIBIT 6.—CONTINUED.

123

(Check Stamped: Remitted for Credit North of Scotland Bank Limited 3-4, Lothbury, London, E. C. 2.)

G.15456

E/8

Sept. 29th 1930

MIDLAND BANK LIMITED
Gray's Inn Branch, 49, High Holborn, W. C. 1.

(2d stp.)

Pay H. Wise Esq. .....or Order
Nine Thousand Pounds _____
£9,000—0—0

M

Broad Street Press Ltd.
A. PARIS
ALBERT S. J. OSBORN } Directors

(Stamped: Paid 30 Sep 1930)

On the reverse side endorsed: "H. Wise."

Duplicate

1. Warrant.

(SEAL)

To each and all of the Constables of the Police Force for the City of London and the Liberties thereof, and to all other Constables and Peace Officers in the said City and Liberties.

CITY OF LONDON TO WIT.

WHEREAS HARRY WISE otherwise J. FACTOR, otherwise GUEST otherwise J. WALKER (hereinafter called the "Accused,") has this day been charged upon Oath before the undersigned, one of the Aldermen of the City of London, being one of His Majesty's Justices of the Peace in and for the said City and the Liberties thereof, for that the said Accused, in the said City, on the 14th day of July, 1930 and the 26th day of August 1930, did receive from the Broad Street Press Limited the sums of £15,000 and £70,000 respectively knowing the same to have been obtained under circumstances which amount to a misdemeanour to wit, conspiracy to defraud,

124 2. For that he on the 3rd day of October 1930, did receive the sum of £30,000 on the 14th day of October 1930, did receive the sum of £10,000 on the 16th day of October 1930, did receive the sum of £20,000, on the 16th day of October 1930, did receive the sum of £25,000 on the 17th day of October 1930, did receive the sum of £40,000 and on the 27th day of October 1930 did receive the sum of £6,000 in each case from the Broad Street Press Limited knowing the same to have been obtained under circumstances which amount to a misdemeanour, to wit conspiracy to defraud and

3. For that he on divers days between the 14th day of June 1930, and the 30th day of September 1930, did receive the sum of £242,500 from the Broad Street Press Limited knowing the same to have been obtained under circumstances which amount to a misdemeanour, to wit conspiracy to defraud,

in each case contrary to section 33 (1) of the Larceny Act, 1916.

THESE ARE THEREFORE to command you, in His Majesty's Name, forthwith to apprehend the said Accused, and to bring him before me, or some other of His Majesty's Justices of the Peace for the said City, at the GUILDHALL JUSTICE ROOM in the said City, to answer unto the said Charge, and to be further dealt with according to Law.

GIVEN under my Hand and Seal this 10th day of December, 1930. 192 , at the Guildhall Justice Room aforesaid.

ISIDORE N. JACOBS,

SEAL
ALDERMAN
JUSTICE OF THE PEACE.
GUILDHALL JUSTICE ROOM
CITY OF LONDON

SEAL
SECRETARY OF STATE
HOME DEPARTMENT

250—D. 858—2/25.
P.T.O.

Backing of Warrant.]

to wit. } *Whereas,* Proof upon Oath hath this day been made before me, one of His Majesty's Justices of the Peace for the of that the Name of to the within Warrant subscribed is of the handwriting of the Justice of the Peace within mentioned: I do therefore hereby authorize who bringeth to me this Warrant, and all other persons to whom this Warrant was originally directed or by whom it may be lawfully executed, and also all Constables and other Peace Officers of the said of to execute the same within the said last mentioned

GIVEN under my Hand this day of 192

124½

125 CITY OF LONDON TO WIT

I, the undersigned, one of the Aldermen of the City of London and one of the Justices of the Peace acting in and for the said City, sitting at the Guildhall Justice Room HEREBY CERTIFY that the typewritten and photostatic matter contained in the foregoing sixty pages of paper is a true copy of the Information of the Director of Public Prosecutions and depositions of Cyril Thomas Newman, William Joseph Wallis Hill, Gladys Marion Stacy, John Thomas Hedley, Frederick William Turner, Frank Stanley Cochrane, Augustus Young, Robert Henderson Hamilton, Benjamin Brychan Williams, Cecil Gates, Robert James Trivett, Frederick William Memory, Frederick William Jan, Philip Neville D'Esterre Taylor, Leslie Williams, Margaret Woollends, Florence Farncombe, Leonard Victor Shortlands, Ernest Frank West, Jane Crawford Cunningham, James Richard French and Claud James Matthew Gwatkin in support thereof, laid and sworn before me on the 10th day of December, 1930, and of the Exhibits market 1 to 6, and of the Warrant issued by me thereon for the apprehension of Harry Wise, otherwise J Factor, otherwise Guest, otherwise J. Walker.

GIVEN under my Hand and Seal at the Guildhall Justice Room aforesaid this 10th day of December, 1930.

ISIDORE N. JACOBS,

SEAL
ALDERMAN
JUSTICE OF THE PEACE
GUILDHALL JUSTICE ROOM
CITY OF LONDON

SEAL
SECRETARY OF STATE
HOME DEPARTMENT

STAMP
JUSTICE ROOM
GUILDHALL JUSTICE ROOM
IS OD

EMBASSY OF THE
UNITED STATES OF AMERICA

SEAL
UNITED STATES OF AMERICA

127 I, CHARLES G. DAWES, Ambassador Extraordinary and Plenipotentiary of the United States of America in London; hereby certify that the annexed papers, being copies of the Depositions proposed to be used upon an application for the extradition from the United States of America of Harry Wise, alias J. Factor, alias Guest, alias J. Walker, charged with the crime of receiving certain monies knowing the same to have been obtained under circumstances which amount to misdemeanour, to wit, conspiracy to defraud, contrary to Section 33 (1) of the Larceny Act 1916, alleged to have been committed in Great Britain, are properly and legally authenticated so as to entitle them to be received in evidence for similar purposes by the tribunals of Great Britain, as required by the Act of Congress of August 3, 1882.

CHARLES G. DAWES.

SEAL
EMBASSY OF THE
UNITED STATES OF AMERICA
LONDON

London February 26, 1931.

128 In forwarding the annexed papers, to be used in support of an application for the surrender from the United States of America of Harry Wise, otherwise J. Factor, otherwise Guest, otherwise J. Walker, charged with the crime of receiving certain monies knowing the same to have been obtained under circumstances which amount to misdemeanour, to wit, conspiracy to defraud, contrary to Section 33 (1) of the Larceny Act, 1916, committed in Great Britain, I hereby certify that, to the best of my knowledge and belief, the signature "Isadore N. Jacobs" certifying to the correctness of the copies of the Depositions is the signature of Alderman Isadore Nathan Jacobs, one of His Majesty's Justices of the Peace for the City of London, having authority to issue

and receive the same, and I further certify that such documents so certified by a Magistrate having jurisdiction in the place where the same were issued and taken, and authenticated by a Minister of State, and sealed with his official seal, would be received in evidence for similar purposes by the tribunals of Great Britain.

E. Blackwell,
Assistant Under Secretary of State for the Home Department.

Whitehall.
24th February, 1931.

[Seal. Secretary of State Home Department]

Certified at the Foreign Office for Legalization of the Foregoing Signature. "E. Blackwell."

F. G. A. Butler,
Finance Officer of the Foreign Office.

[Seal. Foreign Office]

London.
25th Feb. 1931.

130 City of London, to wit:

The Further Deposition of Claude James Matthew Gwatkin taken on oath this 24th day of February, 1931, before me, the undersigned, one of the Aldermen of the City of London, sitting at the Guildhall Justice Room within the said city, being supplemental to the Information of The Director of Public Prosecutions and to the Depositions and Exhibits in support thereof, sworn at the said Guildhall Justice Room on the 10th day of December 1930, upon which last mentioned date there was issued by Alderman Isidore N. Jacobs a Warrant for the arrest of Harry Wise otherwise J. Factor, otherwise Guest, otherwise J. Walker, upon three charges of receiving certain sums of money from the Broad Street

Press Ltd., totalling in all the sum of £458,500 and knowing the same to have been obtained by means of a misdemeanour, to wit, conspiracy to defraud, contrary to Section 33 (1) of the Larceny Act, 1916.

And the said CLAUD JAMES MATTHEW GWATKIN on his oath saith as follows:

I am a solicitor for the Supreme Court of Judicature in England and a Professional Clerk in the Department of the Director of Public Prosecutions, London, England.

I crave leave to refer to the Deposition sworn by me on the 10th day of December 1930 before Alderman Isidore N. Jacobs at the Guildhall Justice Room, and in addition thereto say:

I have had charge on behalf of the Director of Public Prosecutions of the investigations of the criminal charges against the said Harry Wise otherwise J. Factor otherwise Guest, otherwise J. Walker, and also against the following persons, namely, Herbert John Spellen, Joseph Wise, Burnett Leon Elman and Frederick Newbery, who are at present charged before Alderman Isidore N. Jacobs at the Guildhall Justice Room for the City of London upon a charge of conspiring together with each other and with Harry Wise otherwise J. Factor otherwise Guest otherwise J. Walker and with Arthur J. Klein and with other persons unknown to cheat and defraud such persons as should be induced to part with money to the said Harry Wise, otherwise J. Factor, otherwise Guest otherwise J. Walker and to the said Arthur J. Klein and to other persons unknown trading under the name of the Broad Street Press Limited by false representations that they were then carrying on a genuine business as Stock and Share Brokers. Evidence with relation to the charges against the said Herbert John Spellen, Joseph Wise, Burnett Leon Elman and Frederick Newbery has been taken before the said Alderman Isidore N. Jacobs at the Guildhall Justice Room on the 1st day of December 1930, the 17th day of December 1930, and 2nd day of January 1931, the 16th day of January 1931, the 30th day of January 1931, the 12th day of February 1931, and the 18th day of February 1931: I was present on each of these occasions throughout the whole of the proceedings and I attach hereto a certified copy of the Depositions of the several witnesses whose names hereafter appear, each of whom was duly sworn in my presence and each of whose

deposition was signed in the presence of the Alderman, together with certified copies of certain of the Exhibits 131 referred to in such depositions.

C. J. M. GWATKIN.

Sworn to before me this 24th day of February 1931 at the Guildhall Justice Room in the said City.

ISIDOR N. JACOBS.

Stamped:

SEAL
ALDERMAN
JUSTICE OF THE PEACE
GUILDHALL JUSTICE ROOM
CITY OF LONDON

SEAL
SECRETARY OF STATE
HOME DEPARTMENT

132 1st Dec. 1930. PERCY JOHN GROOM on oath saith:—

I am an Architect and Surveyor practising at 1 Broad Street Buildings, Liverpool Street, E. C. 2.

I am the authorised Agent of Mr. Richard Rose, Landlord of premises 1 to 4 Broad Street Buildings.

Some time prior to August 1928, it was on the 13th August 1928, I had a telephone conversation with a person who said he was Mr. Wise and later on I saw Mr. Wise—on the 17th August 1928—I don't recognise Accused. At that interview Mr. Wise said he wanted to rent 2 Broad Street Buildings and I asked for his references. He gave me three names. One was Barclays Bank, Mr. Burnett L. Elman, Solicitor of 27 Lincoln's Inn Fields and Mr. Savile of 42 Copthall Avenue, E. C.

I produce a letter I received from Mr. J. Wise with the names of the references Exhibit 1 dated 13th August 1928.

I took up the references which were satisfactory and in consequence I wrote to Mr. J. Wise dated 23rd August 1928 a copy of which I produce, Exhibit 2.

I arranged for the drafting of a Lease with Mr. Rose's Solicitors.

Wise took possession of the offices about the 25th August 1928 pending the preparation of the Lease and from that date he carried on business there in the name of the City News.

Later Wise wanted to rent two additional offices. That was in September 1928 and that was agreed to and he became the tenant of seven offices at No. 2 Broad Street Buildings, at a rent of £410 per annum payable quarterly.

He did not take up the Lease of those two offices.

On 13th November 1928 I received this letter Exhibit 3 from Mr. J. Wise. I had previously had a telephone conversation with the Broad Street Press Limited and had received this letter dated 13th November 1928 Exhibit 4 from them.

133 I produce a Surrender of the Lease by Wise of the five rooms dated 7th February 1929, Exhibit 5, and as from that date Broad Street Press Limited were the Tenants of the seven rooms and on that day Broad Street Press Limited took up the Lease of the 7 offices and I produce the Counterpart Lease dated 7th February 1929, Exhibit 6.

I don't think I received any payment of rent from J. Wise himself. Mr. J. Wise's address was 15 Chandos Road, Cricklewood, N. W. 2.

In the first place I received the rent from the City News and in the next place from the Broad Street Press Limited.

Everything after the early part of October 1928 was signed A. S. J. Osborn as Director of Broad Street Press Limited.

I called at the premises once or twice and I saw Mr. Monerieff there.

On 2nd October 1930 when I called Mr. Monerieff handed me a cheque for rent of the offices.

It also included the rent of two adjoining offices.

Cross Examined by Mr. Teff for Monerieff:

I had also seen Mr. Monerieff with respect to some repairs of the premises.

I called to see him about a complaint of another Tenant and while I was there Monerieff said I might as well take the cheque for the rent.

Re Examined:

I produce a letter dated 21st August 1928, Exhibit 7, which I received from Mr. Elman.

PERCY JOHN UNDOM.

17 December 1930. PERCY JOHN UNDOM on his oath saith:

Recalled:

134 The evidence I gave on the 1st December now read over is true.

PERCY JOHN UNDOM.

135 17 December 1930. DONALD PRITCHARD NICHOLLS on his oath saith:

I am a Clerk in the Employ of Goddard & Smith, 22, King Street, St. James', Estate Agents.

They are managing agents for the landlords of 2 Broad Street Place. The landlord was Mr. Marshall King Smith.

On 27th July 1928 on a telephone message from our letting office at Broad Street Place my firm sent a letter, copy produced, Exhibit 9, to J. Wise, 15, Chandos Road, N. W. 2.

On 31st July I received this letter dated 30th July signed J. Wise, Exhibit 10.

We answered that letter by a letter of which I produce a copy, Exhibit 11.

I produce the original counterpart agreement between Mr. Marshall King Smith and Joseph Wise of 15, Chandos Road, dated 4th September, 1928, Exhibit 12.

Before the agreement was entered into J. Wise supplied references one was Bernard Leon Elman. I produce the reference I obtained from Elman, dated 31st August, 1928, Exhibit 13.

That agreement was for a tenancy by J. Wise of four rooms on the first floor at Broad Street Place at £250 per annum. The term commenced at 29th September, 1928. By arrangement J. Wise entered into occupation on 10th September. The term was to expire on 29th September, 1931.

No application was made by J. Wise for permission to sublet those premises.

From our books it appears that the proportion of rent from 10th-29th September, 1928, was paid on 21st September, 1928, £20.11.10. by cheque and drawn by B. Elman.

The rent due at Christmas 1928, £118.19.9. was paid on 4th January, 1929 by cheque drawn by J. Wise on Barclays Bank, High Holborn.

The rent due on 25th March, 1929, £121.7.9 was paid 4th April, 1929, by cheque drawn by H. Wise on North of Scotland Bank, Lothbury.

The rent due Midsummer, 1929, £112.7.9 was paid 28th June, 1929, by cheque drawn by "Monerieff for J. Wise" on Midland Bank, Chancery Lane.

The rent due at Michaelmas, 1929, £98.17.9 was paid on 26th October, 1929, by cheque drawn by J. Wise on Barclay's Bank, High Holborn.

The rent due at Christmas, 1929, £111.5.3 was paid 3rd February by cheque drawn by a name like Spellen on the North of Scotland Bank, Lothbury.

The rent due 25th March, 1930, £112.16.7. was paid in cash about 8th May.

The rent due at Midsummer, 1930, £106.1.9 was paid on 28th June by cheque drawn by J. Wise on Barclay's Bank, High Holborn.

The rent due at Michaelmas, 1930, £98.17.6 was paid 30th September by cheque drawn by S. Monerieff on Midland Bank, Chancery Lane.

In February, 1930, we received this letter (Exhibit 14) from J. Wise asking to be released from his tenancy agreement. My firm did not agree to that.

We also received this letter (Exhibit 15) dated 14th May, 1930, signed J. Wise, as to non-delivery of letters by the resident steward.

I have met J. Wise. I never visited the offices while that tenancy existed.

DONALD PRITCHARD NICHOLLS.

137 17 December 1930. FREDERICK ALFRED LONGMAN on his oath saith:—

I am the Secretary to P. C. S. Dodd & Son Ltd., 42, Cornhill, Landlords of 42, Cornhill.

On 24th September, 1929, an agreement between my Company and Walter Hamilton Dalrymple, Richard Haydon

Guest and Christopher Norman Schwabe was drawn up, by which they became tenants of offices on the 3rd floor at 42, Cornhill, at £475 per annum.

About 24th March, 1930 with my Company's permission those offices were sublet by Mr. Haydon Guest to one Clyne—who carried on business there as F. Jackson & Co.

About the end of October, 1930 a Mr. Max Gerson called upon me as to a release of Mr. Klein of his obligations under the lease.

In November £250 was paid by Mr. Max Gerson on behalf of Mr. Klein in full settlement of rent owing and releasing him from his obligation under the lease.

That was paid as a result of correspondence between Mr. Gerson and my company. I produce the two letters which passed (Exhibits 18 and 19).

No agreement was ever entered between my company and Klein as to the subletting.

FREDERICK ALFRED LONGMAN.

138 17 December 1930. DAVID JAMES HORN on his oath saith:—

I am Estates Clerk to the House Property & Investment Ltd., Ludgate House, 3, St. Bride Street.

Towards end of September, 1930, someone called as to renting offices at Ludgate House, they were the defendants J. Wise and Moncrieff.

They inspected several suites of offices and finally decided to take offices on the 2nd floor.

Mr. J. Wise told me their business was the starting of a financial paper. He did not say the name of the paper.

On 1st October, 1930, J. Wise called alone and agreed to take the offices. I asked him for references. He gave me the names of Goddard & Smith, Estate Agents, King Street, S. W., Mr. Bernard Elman, and Barclay's Bank, Holborn.

He told me he was a financier and lived at 15, Chandos Road, Cricklewood and also gave the address, 2, Broad Street Place.

We communicated with Mr. Elman. I produce his reply Exhibit 21.

An agreement was entered into on 8th October, 1930, produced, Exhibit 22, and signed by J. Wise and witnessed by

me, and he was allowed to take possession immediately. The tenancy began on 11th November.

J. Wise said later that the names on the door were to be "Financial Observer" and "Throgmorton Press Ltd." Those names were put on the door.

There were other people at those offices besides Wise.

Cross-Examined for J. Wise:

We had no correspondence with Mr. Wise.

I did not know definitely that he was a dealer in precious stones. I don't think he ever mentioned it to me.

Court:

I did not know he was a dealer in precious stones.

Further Cross-Examined:

I knew he was described as a diamond merchant in the Post Office Directory.

139 I think he told me he was a financier. I am certain he did.

For Mr. Elman:

I took up the three references. They were all three satisfactory.

I produce the reference we got from the Bank, Exhibit 23. The other was obtained by telephone.

DAVID JAMES HORN.

140. 18 Feby 1931. WILLIAM GEORGE HAWKINS on his oath saith:—

I am an accountant, employed by Messrs. Dommett Soper & Co., Chartered Accountants at 15, Copthall Avenue. That firm manage the property known as 15, Copthall Avenue.

The accused Newbery is a tenant of 15, Copthall Avenue and was a sitting tenant when we took over the management in 1910.

In 1930 he occupied six rooms on the ground floor, at a rent of £463 a year, paid quarterly by cheque drawn either on the account of General Mining Corporation Ltd., Barclays Bank or his own personal cheque.

Newbery's offices are used as registered offices of Companies. There are names of companies on his door.

I produce a list of them, 23 companies, Exhibit 147.

WILLIAM GEORGE HAWKINS.

141 1st Dec. 1930. RUTH BEMROSE on oath saith:—

I am a Clerk in the office of Registrar of Business Names.

I produce the file relating to the registration of F. Jackson & Co. Investment Brokers, 42 Cornhill, E. C. Exhibit 8.

The registered Proprietor is Herbert John Spellen, 82 Bedford Court Mansions, London, W. C.

The commencement of the business was 28th March 1930.

Recalled next page.

RUTH BEMROSE.

142 17 December 1930. *Recalled:*

The evidence I gave on the 1st December now read over is true.

RUTH BEMROSE.

143 17 December 1930. SAMUEL FREDERICK ROBERTS on his oath saith:—

I am the head lift attendant at 1-5, Broad Street Place.

In July, 1928, I was in charge of the premises in the absence of the resident Steward. During that time a person inquired of me as to any vacant offices. He gave me the name J. Wise. I don't recognise him in this Court now. I shewed him offices at 2, Broad Street Place and then communicated by telephone with the head office of Messrs. Goddard & Smith.

Part of my duties consists of sorting letters that arrive for the various tenants and from time to time I received letters and correspondence addressed to J. Wise at Broad Street Place which were collected from me by a member of his staff.

I have been shewn a number of photographs and I picked out one of the persons who originally spoke to me about

the vacant offices. It is the photograph produced (Exhibit 16).

From time to time I had occasion to visit the offices occupied by J. Wise. I saw there the people whose photographs are numbered 2 and 6 on the strip of photographs produced (Exhibit 17).

In May, 1930, those offices were vacated.

The person whose photograph is No. 6 in Exhibit 17 collected the correspondence after that.

SAMUEL FREDERICK ROBERTS.

144 30 Jan. 1931. ROBERT JAMES TRIVETT on oath saith:—

I am a Valet in charge of Flat 9 at 48 Grosvenor Square.

On 1st December 1929 that flat was let to A. J. Klein.

Exhibit 16 is his photograph.

About a fortnight afterwards he was joined there by another man whom I knew as Fraser—with his wife and child.

I continued as valet to both Klein and Fraser.

Fraser told me once that his name was Factor. Once he said his wife's stage name was Factor.

Ex. 20 is a photograph of the man Fraser or Factor.

Fraser left the flat about 3rd October 1930 and Klein left about 20th October.

Neither of them said where he was going. I have not seen them since. I often went into the flat. I frequently saw correspondence lying on the table addressed, some to Fraser and some to Factor. I think Factor's initial was "J."

I think Fraser's initial was also "J."

ROBERT JAMES TRIVETT.

17 December 1930. RICHARD HAYDEN GUEST on his oath saith:—

I live at 105A, Adelaide Road, Hampstead. I am a half Commission broker.

I know the person whose photograph is Exhibit 16. He is Mr. Klein. I first met him about the beginning of 1928.

145 I had my first business transaction with him towards the end of 1928. Klein was then floating the Aeonic Wireless Ltd.

I introduced him to a Mr. Gottlieb in regard to that.

Some time after that Klein told me of Victoria Gramophones Ltd., and Fisher Foyles Ltd., as Companies in which he was interested.

As to Fisher Foyles Ltd., he told me he required someone to underwrite an issue. With that object in view I registered a Company called Threadneedle Securities Ltd.

I then signed agreements for payment of the underwriting expenses of Fisher Foyles Ltd.

After that issue had taken place Klein gave me two cheques, one for about £6,500 in respect of the preliminary expenses, drawn in favour of Klein and endorsed by him to me, and another for £10,000 in respect of the underwriting, drawn in favour of H. Wise.

I did not know H. Wise.

Both cheques were drawn upon the account of Fisher Foyles Ltd. I paid them both into the account of Threadneedle Securities Ltd. and later I handed Klein a cheque for £16,000, deducting the £500 for my commission.

In September 1929 I was in partnership with Mr. Schwabe and Captain Dalrymple and carried on business until February 1930 when we decided to dissolve partnership and disposed of the lease of 42, Cornhill.

Shortly after that I met Klein who was looking for offices and I told him of the offices at 42, Cornhill.

Later I received from him a cheque £450 in payment for the unexpired lease and office furniture.

We had no business transaction with Klein while he was at 42, Cornhill.

I called on him at 2, Broad Street Place. I saw no name on his door there. I saw a number of other people in the office there. I saw No. 2 on Exhibit 17, the accused Spellen, and of course No. 6—Klein.

I have seen the people No. 1 and No. 5 on Exhibit 17 with Klein.

No. 5 is the defendant Wise.

146 No. 1 I knew as Green. I have seen Green and Klein together on a number of occasions, never at Broad Street Place. I have seen Wise at our office once or twice—alone—I have seen him with Klein, but cannot say where.

I have seen the person whose photograph is produced (Exhibit 20). I knew him as Walker. I met him with Klein. Klein introduced him, about the end of 1928 or beginning of 1929. I have seen Walker a few times at Broad Street Place.

By Mr. Roberts for J. Wise:

J. Wise called on 2 or 3 occasions to sell me jewelry and precious stones, not in any way on the business of the Broad Street Press or the other Companies mentioned.

I introduced him to Mr. Dalrymple with whom he also had transactions in precious stones.

RICHARD HAYDEN QUIRK.

147 17 December 1930. HERBERT STANLEY HOUNSE on his oath saith:

I am an Engineer, in later years a financial negotiator of 338, Denmark Villas, Hove, Sussex.

I know a Mr. Klein, Exhibit 16 is a photograph of him.

I was introduced to him about November 1928.

I was then associated with the Mineing Lane & General Trust Co. Ltd. which undertook to make a public share issue of a newly formed Company called Accolo Radio Ltd. on the express condition that Mr. Klein provided the underwriting. Mr. Klein did so and provided the money partly by cheque and partly by bank draft.

Later I came in contact with him as to some advertising work for the same Company. I introduced him to a Mr. Broadhurst, Advertising Agent.

In October, 1929, I formulated a plan for amalgamation between Fisher Foyles Ltd. and a large firm of aluminum producers.

I arranged for a meeting of some of the directors of both concerns.

Before the meeting it came to my knowledge that Klein was a large shareholder in Fisher Foyles. I saw Klein about it and he told me that he held about 60% of the total holdings in the Company. That surprised me. There had been numerous references to dealings in Fisher Foyle's shares in the financial press from which I gathered that large quantities of shares had been sold throughout the country.

As a result of the negotiations for the merger I met Klein two or three times a week.

I had occasion to make inquiries as to his bank references. He gave as a reference H. Wise at the North of Scotland Bank for £250,000.

A little later Klein asked me if I could provide him
148 with a sound market deal. I made inquiries and introduced him to someone who held an option on a large quantity of shares in Phantoastra Ltd. About 700,000 shares were available owing to failure of underwriters and also to Vendor's shares. Klein told me he had taken an option on those shares and extraordinarily active dealings commenced. As a result of certain action taken by the Stock Exchange, Phantoastra Ltd. was wound up.

After that I saw Klein towards the end of January 1930, I asked him if he could give me any explanation of the drastic action of the Stock Exchange Committee and if he would financially assist the Company. He appeared to consider the question and then told me he would not render financial assistance.

After a few days he said he was very tired of the business he was doing at 2, Broad Street Place and was going to vacate his offices there.

A few days after that I wrote to Klein at 48 Grosvenor Square. At that time I was in offices at 14, Copthall Avenue, the offices of the United Overseas Trust Ltd.

Early in February, 1930 Klein called upon me there, and suggested that he would take a 3 months tenancy of part of those offices and it was arranged that he should occupy part of the offices for 3 months.

After 14th February he came to the office every day to the best of my remembrance.

I once met the defendant Elmer there, and almost every day from a later date than the 14th the defendant Speller.

On 4th March Klein said he could make use of all the offices at 14, Copthall Avenue and suggested that I should occupy the offices at 2, Broad Street Place. Reluctantly I fell in with that suggestion.

Before I left 14, Copthall Avenue the total staff there was increased to 5.

As far as I could see the work was typing, proof work for a financial paper.

Frequent messengers called from Williams Lee & Co.
149 I went to the offices at 2, Broad Street Place and occupied one room there for 14 days. Klein's proposal was that I should take over the unexpired portion of the lease.

No one else was at Broad Street Place offices while I occupied the one room there. A dispute arose between me and Klein as to the taking over of the premises. Correspondence passed from me to Klein. I received no letters from him. Produced (Exhibit 24) is a copy of a letter I wrote to Klein, dated 21st March, 1930.

Ultimately correspondence took place between me and Klein's solicitor. The end of it was that Klein issued a writ against me which I defended. The case is still unsettled.

HERBERT STANLEY HOUSE.

150 17th December 1930. RALPH MASSEY on his Oath saith:

I am an official in the office of the Registrar of Companies, Somerset House.

I produce the file of Broad Street Press Ltd. (Exhibit 25) incorporated as a private Company on 8th September, 1928, with a nominal capital of £5,000 divided into 5,000 Ordinary Shares of £1 each.

The return of allotments shows that the shares were all issued for cash fully paid up.

One share was allotted to J. H. Osborne, one to H. P. Coppins, 3,000 to A. Paris, 1,998 to A. S. J. Osborn.

J. H. Osborn and Coppins were signatories to the memorandum.

The directors were Paris and A. S. J. Osborn.

The shares were allotted on 12th September, 1928 for cash, according to the Return.

On 11th September, 1929 the 1 share held by Coppins was transferred to J. H. Osborn.

According to the Memorandum of Association the objects of the Company were *inter alia* to print, publish and circulate a newspaper.

The registered office is given as 27, Lincoln's Inn Fields.

The Solicitor to the Company was Burnett, L. Elman the first documents of the Company are shewn as having been presented by him—and his address given as 27, Lincoln's Inn Fields.

The Secretary was J. H. Osborn. In the annual return he is shewn as John Henry Osborne, Solicitor's Clerk, of 27, Lincoln's Inn Fields.

The last return of shareholders on the file is dated December, 1929.

The Company is now in process of being wound up by compulsory order of the High Court dated 10th November 1930.

The Official Receiver is the provisional liquidator.

The file shows that on 28th October, 1930, a special 151 resolution of the Company was made for voluntary winding up and the liquidator was Mr. Isaac Levy.

Cross-Examined for Elman:

John Henry Osborn's address is given as 27, Lincoln's Inn Fields. No private address is given.

Recalled:

I produce the file of Phonotestra (Henns Gramophones & Wireless) Ltd. a public company incorporated on 27th November, 1928, registered offices, 62, London Wall and presented for filing by Ernest Salomon & Co., Solicitors, London Wall.

The capital of the Company was £25,000 in 1,000,000 shares of 5/ each. They were issued as to 560,000 allotted for cash, and taken up.

280,000 allotted otherwise than for cash *i. e.* to Vendors. The Vendors were Unison Trust & Agency Ltd.

The objects of the Company are shewn as "Manufacturers of and dealers in gramophones and accessories," and "to acquire the undertakings of Henn Hounam & Co. Ltd., Sterto Manufacturing Co. Ltd., and Phantom Orchestras Ltd."

A series of debentures was registered on 11th April 1929 for £35,000.

Alfred John Hall, Robert Layer Parker and William Finnemore are shewn as directors.

A compulsory winding-up order was made on 12th May, 1930. The liquidator appointed was Hughson Graham King and the receiver Mr. A. E. Middleton.

Cross-examined for Elman:

I do not see the name of the accused Elman on the file as a shareholder.

Recalled:

I produce the file of Fisher's Foils Ltd., a public Company registered 29th January, 1929.

The Capital of the Company was £200,000 in 4,000,000 shares of 1/- each, all of which have been issued, 2,600,000 152 odd for cash and 1,300,000 odd otherwise than for cash.

The last directors were Sir Edgar Holverton, Arthur Bacal, Frank Harry Fisher, Donald Frank Fisher, Col. John Fredk: Tyrrell, and Col. John Williams.

Under date 2nd May, 1929, is an Agreement between F. H. Fisher and Sons Ltd., and Fisher's Foils Ltd., by which Fisher's Foils Ltd., take over F. H. Fisher & Sons, Ltd. The date of the agreement is 29th January, 1929.

There is a report of the auditors Neville Spiro & Co., on the file, certifying the balance sheet with certain reservations with regard to certain expenditure dated 5th June, 1930.

There is also an agreement between Spencer Machine Co. Ltd., and Fisher's Foils Ltd., dated 29th January, 1929, under which the Spencer Co. were to be paid £20,000 to be satisfied by issue to their nominees of 400,000 1/- ordinary shares.

The object of Fisher's Foils Ltd. are shown as the acquisition of Spencer Machines Ltd. and F. H. Fisher & Sons, Ltd.

Recalled next page.

153 2 Jany. 1931 RALPH MASSEY, on his oath saith:

Recalled:

I produce, Exhibit 44, the file of Copthall Securities, Ltd.

It was registered on 31st October, 1928, with registered offices at 3, London Wall Buildings—nominal capital £100 in 100 £1 shares.

The first return of directors shews Anthony Edward Somers and Rose Stoller as directors.

The return of allotment—22nd November 1928—shows A. J. Klein as holding 50 shares.

Anthony Edward Somers 49, and Rose Stoller, 1 share.

Klein is still a shareholder—50 shares.

Recalled:

I produce, Exhibit 45, the file of Threadneedle Securities, Ltd., registered 14th January 1929 nominal capital £100, in 100 £1 shares, and registered offices 22 25 Laurence Pountney Lane.

It shows in the return of allotment registered 20th February 1929 Richard Haden Guest as holding 49, Arthur John Klein, 49, William Powell, 1, and George Boggis, 1 share.

There is no annual return of the list of shareholders on the file.

Recalled:

I produce, Exhibit 46, the file of Rhodesia Border Mining Corporation, Ltd., incorporated in Southern Rhodesia and in this country on 1st August 1930.

The particulars for filing were presented by Thomas Capey Benoz of 80 Coleman Street.

The return of directors shows Jesse Hill, Harry Brignell with addresses in this country and Alexander Fraser and Sidney Aston Redrup with addresses in Buluwayo, Rhodesia.

Nominal capital £750,000 in 1,500,000 shares of 10/- each.

The only allotment of shares shown is that of 1 share each to the seven signatories to the Memorandum and Articles of Association, all with addresses at Buluwayo.

The objects of the Company are stated to be to acquire claims and mining rights for gold and other metals or minerals and any interests therein situated in South Africa, Foreign Countries or elsewhere.

There is no document on the file indicating that any property or any rights have been acquired.

On 24th November 1930 a compulsory winding up order was made against the Company and the Official Receiver was appointed Provisional Liquidator.

Recalled:—

I produce the file of Vulcan Copper Mines, Ltd., registered at Buluwayo, South Rhodesia and registered here on 30th June 1930.

The registered offices are shewn as 25 Victoria Street, directors—Alexander Fraser and Sidney Aston Redrup, both

of Buluwayo, and Alfred Percy Sprange and Alfred Henry Bonnarle residing in this country.

The file gives the name of Arthur Frederick Smith as the person authorised in this country to receive notices.

The nominal capital is £200,000 in 400,000 shares of 10/- each.

The objects of the Company are stated to be to acquire mining rights and claims.

On 22nd June 1930 by special resolution at a meeting of the company at 80 Coleman Street the capital was increased to £600,000 by the creation of 800,000 additional 10/- shares. The memorandum and articles of association were altered by the same resolution, to provide for an increase to any amount as should from time to time become necessary.

That resolution was received in the department on 26th September 1930 with the memorandum and articles.

On 24th November 1930 an order was made by the High Court for the compulsory winding up of the Company
154 and the Official Receiver was appointed provisional liquidator.

Recalled:—

I produce the file of T. W. Webb & Co., Ltd., registered 24th December 1915 as a private company, nominal capital £2,000 in £1 shares.

It was registered by Thomas Walter Webb.

The objects are stated to be to carry on the business of brokers, commission agents, promoters of companies, etc.

The first directors were T. W. Webb and William James Hearn, and registered offices Bank Buildings, Kingsway and altered to 5, Moorgate Street Buildings on 26th March, 1918.

Up to December 1921 the issued Capital was £2 representing two shares—one held by Webb and one by Hearn.

In a return of shares dated 30th December 1922 the Executors of Webb are shewn as holding 20 shares and Hearn as holding 20 shares and another director is shewn as taking the place of Webb—Reginald Harrington Brett.

In January 1923 Hearn resigned and Edgar Oswald Blake took his place.

On 21st December 1925 was an allotment 1,960 shares for cash—1,940 to Arthur Frederick Smith and 20 to Brett.

In 1926 Blake's place as director was taken by Reginald

Claude Champ and in 1928 Champ resigned and Arthur Frederick Smith became a director.

In the last return 21st December 1929 the directors are Brett & Smith, in the previous return of December 1928 Brett signs as Secretary.

The 1929 return shews paid up capital £2,000, 20 shares
155 being held by Webb's Executors, 20 by Brett, 20 by Champ, and 1,940 by Smith.

Recalled next page.

2 January 1931. *Recalled:*

I produce Exhibit 49, the file of Sunbeam, Presswork & Conveyors Ltd., registered 8th October 1928 with registered offices, 6, Martin Lane, Canon Street, nominal capital £50,000 in 500,000 shares of 2/- each.

156 The objects are shewn as being to enter into and carry into effect an agreement with Gramostyles Ltd.—*inter alia.*

There are seven signatories to the Memorandum and Articles all holding one share each.

The return of allotments 29th May 1929 shews 155,000 shares for £15,500 and shares allotted otherwise than for cash 345,000 2/- shares for £34,500.

The consideration was the acquisition of the shares of Gramosyles Ltd. in accordance with an agreement of 5th April 1929.

By resolution filed on 14th February 1930 the capital was increased to £100,000 by 500,000 additional shares of 2/- each.

On 10th June 1930 a notice of appointment of receiver or manager was filed.

Recalled next page.

30 Jany. 1931. RALPH MASSEY, recalled, on oath saith:

I produce the File of Throgmorton Press Ltd. Exhibit 141 incorporated as a private Company on 6th October 1930, with a nominal capital of £10,000 in £1 shares.

157 Two shares have been allotted, one each to the two signatories to the Memorandum.

There is no return of allotment on the File.

The Directors were Cyril Alfred Hannan Harris and George Edward Reginald Wheal.

The objects of the Company were to carry on the business of Newspaper proprietors and publishers.

An Order for Compulsory Winding Up was made on 15th December 1930.

Cross Examined for Elman:

I have some years experience in registering Companies.

It is a very common practice for a Solicitor's clerk to sign the Memorandum of a Company and to act temporarily as Secretary and for the registered office of the Company to be temporarily at the office of the Solicitor.

RALPH MASSEY.

30 Jan. 1931. QUERTIER LE PELLEY on oath saith:

I am His Majesty's Greffier of the Royal Court of Guernsey and as such I am the Custodian of the Records of the Court. One of my duties is to act as Registrar of Companies registered in Guernsey.

158 I produce certified copies of the Files of Permanent Investments Ltd. Exhibit 129 and Pretoria Mining Estates Co. Ltd. Exhibit 130.

Permanent Investments Ltd. was registered on 26th March 1904 with a capital of £60,000 in 36,000 7% Preference Shares of £1 each and 24,000 Ordinary Shares of £1 each.

The only documents on the File are the Memorandum and Articles of Association, the Certificate of Incorporation, the Annual Returns and an allotment of preference shares.

The first Directors were Frederick Newbery, 15 Copthall Avenue, and Ira C. Ozanne, 5 Court Road, Guernsey.

The registered address of the Company was 5 Court Road, Guernsey.

Ozanne held at first 1 ordinary and 150 preference shares —Newbery does not appear as holding any shares.

7 Signatories held one share each.

Those were the only shares issued until 1928 when the Return shewed that Ozanne's holding had been altered to 151 ordinary shares; and in the return for 1929, he is shewn as holding 36,000 preference shares.

Only 7 of the shares issued up to that date had been issued for cash.

In the return for 1930 Newbery is shewn as holding 100 ordinary shares, and Ozanne 101 ordinary shares.

That return shews that 207 ordinary shares had been 159 issued for cash.

There are no documents on the File shewing the ownership by the Company to any property or rights to property in South Africa, or shewing that Permanent Investments Ltd. had transferred any property or rights to property to Vulcan Copper Mines Ltd. in exchange for 500,000 fully paid ordinary shares.

The Pretoria Mining Estates Co. Ltd. was registered on 6th December 1902.

Apart from the Memorandum and Articles of Association the Certificate of Incorporation and the Annual Returns—there are no other documents on the File.

The Directors were—from 1902 to 1928—Ira C. Ozanne, Sole Director.

The capital of the Company was £200,000 in £1 shares.

The first return of shareholders is for 1909 and shews 149,980 fully paid shares issued to Ozanne for a consideration other than cash.

The Managing Director and Sole Director was Ira C. Ozanne—he continued as such and as the largest shareholder until the Return for 1928 inclusive.

The return for 1925 shews Ozanne as holding 149,983 shares.

The return for 1929 shews Newbery as a director together with Ozanne, for the first time; but not as a shareholder.

In the 1930 return the directors are shewn as Newbery and Ozanne—and Newbery's address is stated as 15 Copthall Avenue, E. C. Newbery as holding 2000 ordinary shares and Ozanne as holding 147,983 shares, and 8 further holdings of three shares each.

It shews that only 7 shares were issued for cash—and that the remaining 150,000 were issued as fully paid up other than for cash.

There are no documents on the file showing that the Company owned any property or rights to property in South Africa or that the Company had transferred any of its 160 property or rights in South Africa to the Rhodesia Border Mining Corporation in exchange for 1,176,000 fully paid shares.

QUERTIER LE PELLEY.

2 Jany. 1931. ARTHUR GEORGE ASHBY, on oath saith:

I am the Secretary of the Committee on New Issues and Official Quotation of the London Stock Exchange.

No application for permission to deal in the shares of Asbestos and Holdings Trust Limited has ever come before the Committee; the same is true of the Vulcan Copper Mines Limited, and of Rhodesian Border Mining Corporation, Ltd.

I produce, Exhibit 29, a Schedule of the names of other companies in respect of which application for permission to deal has been made to the Committee.

I have shewn in Exhibit 29 what action was taken by the Committee in each case. The words "Record withdrawn" and "Record suspended" appear in that Schedule.

"Record Withdrawn" and "Record suspended" mean that dealings are allowed to continue but are not recorded on the marking boards in the Stock Exchange or published in the Supplementary List of Bargains.

ARTHUR GEORGE ASHBY.

162 2 Jany. 1931. FREDERICK FRANCIS SHARLES, on oath saith:—

I am an incorporated accountant and chartered secretary at Salisbury House, London Wall, E. C. 2.

I am Secretary of Fisher's Foils Ltd., whose registered offices are at my offices.

Just after the inception of this Company I was introduced to a Mr. Klein—whose photograph is Exhibit 16.

He was introduced to me in the Board Room at a Board Meeting which Klein attended.

That was sometime in January or February 1929.

Klein was not then registered as a holder of shares in the Company but he was actually the owner by purchase of 2,659,990 shares—1/- shares.

He paid for those shares by two cheques totalling £132,-999.10.0 drawn on the account of H. Wise at the North of Scotland Bank, Ltd., Lothbury.

I never met H. Wise.

There were dealings on the Stock Exchange on those shares shortly afterwards. But not at the time of my introduction to Klein. Application had not then been made.

Klein asked me—as is very usual—to obtain some nominees for him and I agreed to allow about 14 of my clerks to act as his nominees. He had about 97 nominees altogether.

The Committee of the Stock Exchange gave permission for dealings in the shares and dealings began about March or early in 1929.

The shares changed hands at prices varying from 1/- to 5/10½d.

I had no dealings in those shares myself.

So far as I know none of the directors or officials of the Company had dealings in them.

On 6th June I received the letter produced, Exhibit 30, from Butchart Carey Dalman & Co., accountants, and I replied by this letter—copy produced, Exhibit 31.

163 On 17th June I received the letter produced, Exhibit 32, giving the name of the client of Butchart Carey Dalman & Co. as Ellman.

On 26th June I sent them this further letter, copy produced, Exhibit 33, and I received their acknowledgment, produced, Exhibit 34.

On 9th July I sent this letter to Butchart Carey Dalman & Co., copy produced, Exhibit 35, and on 11th July received this letter in reply, Exhibit 36.

On 16th July I received this letter, Exhibit 37, from Ellman.

I received this further letter from Ellman dated 16th July, Exhibit 38, and the letter dated 30th July, Exhibit 39, addressed to the Chairman of the Company.

Ultimately the matter came before the Board sometime in July or August 1930 and the directors agreed to issue a circular letter to the shareholders and in consequence a circular letter, dated 8th August 1930—copy produced, Exhibit 40—was sent to all the shareholders.

The day before the issue of the circular the letter produced, Exhibit 41, was received from Ellman.

On Exhibit 41 are two signatures—one that of Ellman and the second is "for and on behalf of London Exchange Ltd.—E. A. Woodley—Secretary."

As a result of the issue of the circular a number of applications were received from shareholders for shares, enclosing the necessary remittances—transfers were executed and registered, and the money received was paid into a separate ac-

count called B accounts at the North of Scotland Bank, Limited, Lothbury, amounting to £14,354.15.0 for the purchase of 287,095 shares.

The shares so sold were all shares that had been issued to nominees of Mr. Klein.

The Committee of the London Stock Exchange suspended markings in the shares on the 15th August and in conse-
164 quence a letter dated 19th August—copy produced, Exhibit 42—was sent to Ellman.

His reply is produced, dated 20th August—Exhibit 43, and on 23rd August a payment was made direct to Ellman and a further payment on 19th September—£13,300 in all.

In the B account is an amount not yet paid over of £346.16.9 in respect of 6 or 7 shareholders. That money is retained with the concurrence of Ellman.

I called at Klein's office at 2, Broad Street Place. I saw there, I think the person whose photograph is No. 2 on Exhibit 17—the accused Spellen.

The highest marking the shares went to was 5/10½d. That was in the very early days of the Company.

In my opinion the value of the Company's shares now is about par—1/-.

Cross-Examined for Elman:—

The Company has a large modern factory at Wembley and a very good business indeed—in the manufacture of chocolate foils and patent packing machines.

In the early life of such a company the value of the shares is very speculative.

The shares were being purchased at 5/10d. during March and April 1929.

In July 1930 the market price was just over par, I believe, so that the offer to sell at par was a reasonable offer.

Since the end of March 1930 the shares have never gone much above par.

FREDERICK FRANCIS SHARLES.

165 2 Jany. 1931. JOHN WILLIAMS, on oath saith:—

I am a Company director and live at 5, Shepherd's Hill, Highgate.

Since 23rd May 1930 I have been Chairman of Fisher's Foils Ltd.

As a result of correspondence between the Secretary of that company and Messrs. Butchart Carey Dalman & Co., it was arranged that I should call and see Elman and I did so sometime in July 1930 at his office, 27 Lincoln's Inn Fields.

I was instructed to get some particulars as to the members of the American group for whom he was trying to sell the shares in the Company.

I asked Elman for the information and he declined to give any further information. He said his group were dissatisfied with the way the Company was being run and if necessary they would call an extraordinary general meeting and have the affairs of the Company investigated.

Exhibit 39 confirms what Elman stated to me at the interview.

I then called a Board Meeting and Elman's suggestion was considered and it was decided to agree to submit his proposal to the shareholders by a circular to be sent out by the Company. Exhibit 40 is a copy of the circular which was sent out. The terms of that circular were settled by the Board. Elman had nothing to do with that.

Upon receipt of the letter, Exhibit 41, from Elman that letter was put before the Board. The circular letter was the result.

Cross-Examined for Elman:—

Before the circular was sent we took legal advice—not from Elman—and on that advice the circular was drawn up and sent out.

JOHN WILLIAMS.

166 2 January 1931. FREDERICK HENRY MANNING on his oath saith:—

I am a Clerk at 3, Tokenhouse Buildings, E. C. I have a half commission brokerage connection with Messrs. James & Co. at that address. They were brokers to the Sunbeam Presswork & Conveyors Ltd. and after the incorporation of that Company they were communicated with by the principal shareholder, Mr. Dalton Parsons.

Messrs. James & Co. were requested by him to apply to the Stock Exchange Committee for a quotation and permission to deal in the shares.

In January 1930 I called at the office of Jenkins Baker & Co., Solicitors, 3 London Wall Buildings, on other business —and while there Mr. Sleigh, a partner in that firm, said he had a client who was willing to purchase a block of sound shares that were quoted on the Stock Exchange.

I made the usual inquiries as to the client's stability from Mr. Sleigh and received satisfactory answers. The client's name was not at that time disclosed to me.

I then approached Mr. Dalton Parsons who agreed to sell a block of shares to Mr. Sleigh's client—whose name was still undisclosed.

An agreement was drawn up and completed—produced EXHIBIT 50—between Mr. Dalton Parsons and myself—under which 25,000 shares were to be taken up at par—2/- within 14 days, and including various options on 475,000 shares at prices from 1/3d. to 2/3d. to be taken up as required, all shares in Sunbeam Pressworks and Conveyors Ltd. belonging to Mr. Dalton Parsons and the rest of the directors.

Up to roughly about this time I had no knowledge of the identity of Mr. Sleigh's client.

When confirming the terms I became aware of his identity from a draft agreement submitted for my signature, in which the client's name was given as A. J. Klein. That was some time in the latter part of January or beginning of February 1930.

Klein was present then.

Exhibit 16 is a photograph of him.

167 I asked Klein what he intended to do with the shares, he said he intended to take the market in hand and "put them better."

He told me definitely that he was acting for himself alone.

Klein handed me a cheque for £2,500 for the 25,000 2/- shares. There was no payment then made for the options.

I paid the cheque into my own account at the Midland Bank, Treadneedle Street and then drew a banker's draft for the same amount less £530 owing to me and £50 commission and handed the draft to the Westminster Bank, Threadneedle Street who held the shares against payment.

Up to that time there had been occasional markings in the shares of the Company—from 2/- to 2/3 a share.

The shares went into the name of, I believe, W. Knight, a nominee of Klein's.

After this transaction the shares became active and on one day they became so active that the Stock Exchange Committee stopped dealing with them. The shares went to 5/6d. or 6/-.

From the agreement to the suspension was only a space of a very few days.

I never called at Klein's office and I knew of no person associated with Klein.

Later Klein approached me as to the purchase of some share in "Sim's Motor Unit." Information had come to my knowledge on which I refused to have any further transaction with him.

168 The options on the 475,000 shares were not taken up except as to 35 to 40,000 which Klein took up.

Cross-Examined for Elman:

When I say the Stock Exchange stopped dealings I mean dealings and markets.

Buying shares in this way in order to "put them better" is a general practice.

These shares were not sold through my firm, except as to three sales. I took delivery for the whole amount that were sold and I received payment for them.

Re-examined:

In respect of these three sales I took payment on behalf of Klein and Klein received the money.

FREDERICK HENRY MANNING.

169 2 January 1931. REGINALD HARRINGTON BRETT on his oath saith:—

I am a director and secretary of T. W. Webb & Co. Ltd, 5 Moorgate Buildings, E. C.

I am now the sole director.

Formerly Mr. Frederick Smith was also a director—until about a month ago.

I nominated myself to be a director—I knew T. W. Webb & Co. I did some work and became a director.

T. W. Webb & Co. Ltd., consists of the shareholders and myself.

No other person has an interest in the Company.

I am the only person who takes an active part in the business.

I know the accused Newbury. I have business associations with him, in the buying and selling of shares.

I have been employed by him on all sorts of companies.

I was employed by him before I became a director of T. W. Webb & Co. Ltd.

Newbury has no interest in that Company.

I was employed by Newbury at 15, Copthall Avenue.

I came on the board of T. W. Webb & Co. Ltd. because I knew Mr. T. W. Webb and Newbury said I was to go on the board. It was owing to him that I got on the board.

I bought 20 shares, cash was paid for them. I don't know who paid. I did not.

I don't know how Smith got on to the board.

Smith was only a nominal director, simply signed cheques. I did the whole business.

I had known Newbury two years when I came on to the board, during which two years I was employed by him.

I know a man named Sidney Brignell, he is associated with Mr. Newbury, almost as his private secretary.

This (Exhibit 51) is a copy of a letter from T. W. Webb & Co. Ltd., to H. Wise dated 11th August, 1930. I signed that letter at Brignell's request. He being Newbury's private secretary. With that letter was a contract note, also produced.

T. W. Webb & Co. Ltd. had not then received the £33,000.

The contract note was made out by Brignell and I signed it.

T. W. Webb Co. Ltd. had at that time the right to sell the
1,176,000 shares in the Rhodesia Border Mining Corpora-
170 tion.

I presume we had.

I was simply doing what Brignell, Newbury's private secretary, asked me to do.

At that time Smith was also a director, but he had nothing to do with the matter. His directorship was purely nominal.

That transaction has not yet been entered in the books of T. W. Webb & Co. Ltd.

On 21st August 1930 I received a telephone call and went to 15, Copthall Avenue, the offices of Newbury, those offices are under the name of African Construction and various other companies, including Mezzanine Syndicate.

I was sent for and went there. I saw a man named Spiro and Newbury.

Spiro used to come there a great deal.

I was frequently there, backwards and forwards.

Spiro on this occasion in Newbury's presence asked me to come along in a cab. I did not know where to. I was to collect £33,000 and bring it back to the office.

I went with Spiro in a cab to 27, Lincoln's Inn Fields.

Produced Exhibit 52 is a letter of 21st August 1930 signed by the accused Newbury which was written before the journey. It is written on paper headed "The Pretoria Mining Estates Co. Ltd."

This is a copy of a letter signed by me on behalf of T. W. Webb & Co. Ltd. dated 21st August 1930 to H. Wise, Exhibit 53.

This is a copy of a letter from T. W. Webb & Co. Ltd. to Elman of 21st August 1930, which was signed by me on Newbury's instructions, Exhibit 54.

I know nothing of the Pretoria Mining Estates Co. Ltd. or who the directors are.

I did not know whom I was going to see when I went in the Cab. I was shewn into a private office and saw Mr. Elman there.

I believe I signed the two letters Exhibits 53 and 54 at 27, Lincoln's Inn Fields. We took them with us, on Newbury's instructions.

When we got into the office Elman said he expected to see Mr. Newbury.

Spiro said Mr. Newbury was doing the business in a different manner—through T. W. Webb—and his presence was not necessary. Elman agreed.

My instructions were to collect £33,000 either by notes or by cheque.

Spira said that Elman's cheque would do.

Elman said he would rather do it by notes.

He rang for his clerk, signed a cheque for £33,000, which his clerk took and returned with £33,000 in notes of £1,000 downwards.

Elman counted them and handed them to Spiro, who gave him back £4,000 for which Elman gave me the receipt produced Exhibit 55. Spiro and I then left.

Spira had the £29,000.

We returned to 15, Copthall Avenue and Spiro went into Newbury's office. I did not.

Brignell was to let me know what was done with the £29,000. He did not do so.

After 4 p. m. the Manager of the Midland Bank, Moor-
172 gate, telephoned to me and I afterwards spoke to Brignell who verified that the notes were at the bank in the account of T. W. Webb & Co. Ltd.

On 25th August 1930 on Brignell's instructions I obtained a bankers' draft for £28,000 payable to the Victoria Mining Estates Co. Ltd. Guernsey which I handed to Brignell. That left £1,000 in Webb's account.

They were entitled to a commission of 1%.

I did not deal at all on my own volition in these transactions, but entirely on instructions from Newbury, through whom I got on the board of T. W. Webb & Co. Ltd.

Recalled next page.

16 Jany 1931. *Recalled and Cross Examined for Elman:*

My interview with Elman to collect £33,000 was in August 1930.

I made a statement to the Director of Public Prosecutions in December 1930.

173 I have a clear memory of the conversation. It was such a large amount.

Most of the conversation was between Spiro and Elman.

I did see Elman draw a cheque. I don't know whom it was in favour of. I did not endorse it. I think I am sure of that. I am sure.

I do not remember seeing Elman take a cheque and write "cancelled" across it.

Produced is the original letter of which Exhibit 54 is a copy.

It is Exhibit 116.

When we took it to Elman's office the words "and to us" were not in that letter.

Spiro produced that letter at Elman's office.

I don't remember Elman asking who "Pretorio Mining Estates Co. Ltd." were. I don't remember Spiro saying they were the Vendors.

I don't remember saying, "I have not rendered any services to the Pretoria Mining Estates Co. Ltd." or anything to

that effect, nor Spiro saying, "You are rendering services to me and we are working through Webb & Co."

I do remember Elman writing "and to us" in the letter after the words "to them" and I initialled the alteration. I do not remember any such conversation as that just put to me leading up to that alteration.

Looking at Exhibit 116 I say now that the words "and to us" are in my writing.

I still say I do not remember any such conversation. I never heard it.

174 I did not know that Elman had to pay out some of the £4,000 to others. Most likely the reference in Exhibit 116 to "and your associates" means that.

I do not remeber endorsing any cheque. I did not endorse a cheque.

The money was handed to Elman first. He then handed it over to Spiro, who handed back £4,000 to Elman, for the services rendered "by him and his associates" as in Exhibit 116.

I did not see one of Elman's clerks at that interview, except the clerk who came up for the cheque. Mr. Elman's clerk was only present for the purpose of taking the cheque and bringing the cash. He simply came in and went out again. That was the only clerk of Elman's who was there at all.

The only people present were Spiro, Elman and I.

Further Added on Reading Over:—

I wish to add that I do not remember endorsing any cheque.

I remember the interview because the cheque was for such a large sum of money. I do not remember whether I endorsed a cheque for £33,000.

REGINALD HARRINGTON BRETT.

2 January 1931. CYRIL THOMAS NEWMAN on his Oath saith:—

I am an examiner in the Department of the Official Receiver in Companies Liquidation, 33, Carey Street, and
175 have been investigating the affairs of Broad Street Press

Ltd. and Vulcan Copper Mines Ltd., and Throgmorton Press Ltd.

As to Vulcan Copper Mines Ltd.

A petition for winding up was presented on 8th November 1930 and an order was made on 12th November appointing the Official Receiver provisional liquidator.

On 24th November a compulsory winding up order was made.

The Company was registered under the laws of Southern Rhodesia as a public Company with limited liability on 28th April 1930.

The Registered Office was at Buluwayo and London Office at 25, Victoria Street.

Article 45 of the Memorandum deals with the powers of directors, vesting the management of the business in the directors.

I produce EXHIBIT 56 the Minute Book of the Company.

The assets of the Company consist of £28,303.2.9. the balance standing to its credit at Barclays Bank in London and a sum at present unknown standing to its credit in its bank at Buluwayo.

In the books of the Company there is an item of £830 paid to A. J. Klein on 9th July 1930 in respect of the preliminary expenses of the Company.

I produce EXHIBIT 57 the cheque for £830.

I produce EXHIBIT 58 a contract between Permanent Investments Ltd. and Vulcan Copper Mines Ltd. of 27th June 1930, for sale to the Vulcan Company of mineral rights in Rhodesia and S. W. Africa.

Two of the directors of Permanent Investments Ltd. were Ira Clement Ozanne and F. Newbury.

Apart from the contract Exhibit 58 no documents have come into the official receiver's possession relating to
176 the possession by Vulcan Copper Mines Ltd. of any such properties as are referred to.

This is a letter dated 18th November 1930 from Alexander Fraser, Buluwayo to the Secretary of Vulcan Copper Mines Ltd. in London produced EXHIBIT 59.

As to Broad Street Press Also

I produce Exhibit 60 a cheque dated 3rd July 1930 for £33,000 drawn by Broad Street Press to Vulcan Copper Mines Ltd., for the purchase price of 66,000 shares of Vulcan Copper Mines Ltd. at 10/ each.

As to the contract Exhibit 58 the consideration was a payment of £512,000 payable as to £12,000 in cash and as to £500,000 in cash or shares at the option of the Vulcan Company.

Produced is a letter of 3rd July 1930 from Permanent Investments to the Vulcan Company signed by Ira C. Cragune over a 6d. stamp, Exhibit 61, nominating Broad Street Press Limited to receive an allotment of 1,000,000 shares payable under the contract Exhibit 58. No consideration is mentioned.

From my investigation of the affairs of Broad Street Press I find that Broad Street Press sold 1,273,543 Vulcan shares, value £634,452.7.6. These are more shares than the nominal capital of the Company. The sales were effected by means of the issue of circulars and canvassers.

Broad Street Press Ltd. in fact received £634,452.6. for the shares.

There were certain cancellation and repurchases which reduced the amount realised to £567,961.11.0.

I find that certain shares were sold as Vulcans and afterwards charged to Rhodesia Border Mining shares.

The explanation given was that there was to be an amalgamation of the two companies.

I produce a cheque dated 30th June 1930 drawn by Broad Street Press Ltd. to Permanent Investments Ltd. for £33,000 Exhibit 62. I have not discovered any explanation of that payment.

Assuming that to be for shares that would make a total of £66,000 paid to Vulcan and Permanent Investments which Broad Street Press Ltd. paid altogether for 1,207,543 shares which they sold for £567,961.11.0 a profit to Broad Street Press of about £500,000 in about 3 months.

Recalled next page.

16 Jany 1931. *Recalled:*

re Vulcan Copper Mines Co.

The order for compulsory winding up of this Company was made on 24th November 1930.

178* The statement of affairs dated 2nd January 1931 showed assets:

Cash at bankers	£ 28,275.12.3
Other property:	
Interest in Mines in Rhodesia and S. W. Africa purchase price as per contract	£512,000.0.0
Estimated to produce	£ 6,000.0.0
Total assets	£34,275.12.3
Unsecured liabilities:	
to 6 unsecured creditors	£ 400. 1.6
Other liabilities	£ 6,000. 0.0

being the reduced balance of cash consideration payable to the Vendors, making total liabilities, expected to rank for dividend, £6,400.1.6 and after deducting £7.13.0 due to preferential creditors there was an estimated surplus of £27,867.17.9 to meet the liability to shareholders of £533,200 leaving a deficiency of £505,332.2.3.

As to the item of £6,000, the directors stated on the statement of affairs "Although we believe these properties have a potential value far in excess of this figure we are unable to state what they are estimated to produce and merely quote this sum which it is understood the Vendors will accept as balance of the purchase consideration."

re Broad Street Press:

A petition for the winding up of this Company was presented on 27th October 1930 by Miss Orenn on the ground
179 that she had been induced to part with £6,000 on false representations made by the Company for investment in shares of Vulcan Copper Mines Ltd.

A winding up order was made on 10th November 1930.

The Official Receiver was appointed provisional liquidator.

According to the Return in Somerset House all the capital of £5,000 was issued in shares fully paid.

I have had all the books and documents of the Company at my disposal.

The shareholders at the date of the winding up were J. H. Osborn (Secretary) A. Paris and A. S. J. Osborn.

The books shew no receipt from those persons of any money for shares.

Produced is the Company's Barclays Bank Cash Book, Exhibit 63.

It shews the receipt on 17th September 1928 of £5,000 which is presumably as payment for shares.

I have traced £5,000 paid into Barclays Bank, Bishopsgate on 17th September 1928, to the Company's account.

That is the £5,000 with which the account was opened.

I produce the minute book of the Company, Exhibit 64, recording the first meeting of directors on 12th September, 1928 at 27, Lincoln's Inn Fields, present: A. Paris, A. S. J. Osborn, Elman and J. H. Osborn, and Paris and A. S. J. Osborn were appointed directors, and A. S. J. Osborn, Chairman.

No other directors were ever appointed.

On 12th September 1928 was a meeting of shareholders at which remuneration of directors was fixed at £100 per annum each.

The books of the Company shew that £2 a week was paid regularly to A. Paris, and to A. S. J. Osborn £2 a week from the commencement of the Company to 16th April 1929.

£4 a week from them to 11th January 1930 and £6 a week subsequently.

There is no authority in the minute book or elsewhere for the payment to A. S. J. Osborn of any sum in excess of £100 a year.

At the meeting of directors on 12th September 1928 J. H. Osborn was appointed Secretary *pro tem.*

No other person was ever appointed Secretary.

The books shew no payment to J. H. Osborn.

Those three persons constituted all the officers of the Company.

At the same meeting of directors Elman was appointed Solicitor to the Company, with remuneration of ordinary professional charges.

180 Elman has acted as solicitor to the Company since that time.

On 14th May 1930 the minute book shews that Reid Shar-

man & Co. were appointed Solicitors to act in consultation with Elman.

They are the only Solicitors shown in the minute book to have acted for the Company.

The books shew only one payment to Elman, £250 on 7th October 1930.

That £250 was in respect of a bill of costs rendered by Elman to the Company on 7th October 1930 presented with covering letter, Exhibit 65.

The costs were incurred in respect of actions by the Company against the proprietors of "Truth" and others, for libel, and the costs of the action brought by A. M. J. Osborn against "Truth Publishing Co." and others for libel.

Those actions never proceeded to judgment. The bill of costs states, "Ultimately you decided not to proceed with such action."

481 There is no authority in the minute book to institute those actions.

Mr. Elman registered the Company. The registered office was at his address.

The books show no payment to Elman in respect to the costs of registration.

Article 67 of Table A provides that the business of the Company shall be managed by the directors.

My investigation shows that the directors took practically no part in the conduct of the Company's business. They never managed the Company.

J. Walker, A. J. Speiton, H. Guest, H. Green (or Gloom) A. J. Klein and Monerieff acted in the management of the business of the Company.

J. Walker gave instructions to Elman to register the Company. I produce a letter from Elman to the official receiver of 3rd December 1930, Exhibit 66, to that effect.

The payment of £100 referred to in Exhibit 66 was made on 4th September 1928 by A. J. Klein on behalf of Walker. I produce a letter of 5th December 1930 from Elman to that effect, Exhibit 67.

I have found no correspondence to and from Walker.

The books shew payments to Walker, but no receipts from him.

The payments to Walker are: 26th September 1928, £518.10.11, postage a c G.P.O. 27th September 1928 £957.8.7 Cash, repayment of loan.

The cash book shows that up to 27th September 1928 there had been only one loan of £5,000 on 17th September 1928. That payment of £5,000 has been treated as £5,000 capital. If the £957 17 7 is to be treated as repayment of part of that £5,000 loan, the £5,000 could not, certainly not as to the whole of it, have been paid for capital.

The next payment to Walker is 27th September 1928, £1,250, by Hillmann & Co.

On 6th September, £600, on 13th September £300 and on September 18th £360 were paid by Walker direct to W. H. Hillmann & Co. These three sums make up the £1,260 and were in respect of items:

City News & Advertising	£715 18 7
Sundries	£203 6 2
Paper maker on a/c	£335 0 0

The next payments to Walker are:

9th Oct. 1928, £520, by Postage a/c

9th Oct. 1928, £ 25, by Petty Cash

12th Oct. 1928, £125, Salaries and expenses

I produce the paid cheques in respect of these six payments, Exhibit 68.

182 The cheque for £125 is drawn to Cash, but endorsed J. Walker and cleared through Barclays Bank, Fenchurch Street.

There are two other cheques dated 26th October 1928 drawn to cash, one for £143 1 6 and the other for £154 2 11 both cleared through Barclays Bank, Fenchurch Street, and endorsed, Exhibit 69.

The books of the Company show payments to Speller as follows:

23rd July 1930: £6,000, by cheque on Midland Bank, Exhibit 70.

There are other amounts which went into Speller's account at the National Provincial Bank, Cheapside.

23rd April 1930, £245 to Smith, Dalby & Welch, per H. J. S. The cheque was drawn to cash and paid through the National Provincial Bank, Cheapside.

The cash book, produced Exhibit 71, shews on the following day, 24th April, payments to

Smith Dalby	£ 238.11.8
Kinsler	£ 812.17.6
Kinsler	£1302. 6.6
Total	£2353.15.8

The cheque for £2,353.15.8 was drawn to cash and cleared through National Provincial Bank, Cheapside.

Exhibit 71 is the Company's Midland Bank No. 1 Cash Book.

I produce also the Company's Midland Bank No. 1 Cash book, Exhibit 72, on which appears the payment by cheque to Spellen, Exhibit 70.

Those items to Smith Dalby & Welch are not included in Smith Dalby & Welch's account, to Broad Street Press Ltd. They rendered their accounts to Mr. Spellen at 42, Cornhill.

I produce the wages books Exhibits 73 and 74 shewing weekly payments to Spellen of £10 a week.

Also the miscellaneous book purporting to be a Salaries Book produced, Exhibit 75, kept by Monerieff, shewing payments to unnamed persons, numbered 1, 2 and 3 of £20, £20.10.0 and £12 a week.

The totals of the weekly payments in Exhibit 75 are the same as the totals of the weekly payments in Exhibits 73 up to 9th February 1929.

Exhibit 73 shews the first three entries, for the week ending 29th December Spellen £10, Detrez £15, Monerieff £10, and the total for that week is £165.3.6 including expenses, postages, etc. £27.

Exhibit 75 shews for the same week a total of £165.3.6 but it does not contain the item expenses postages etc. 184 and the first three items read No. 1 £20, No. 2 £20, and No. 3 £17 with a note "overtime".

Among the Company's papers I find a document dated 30th July 1930, produced Exhibit 76, shewing a receipt by Augustus Young, Stockbroker, of £50,000 war bonds for safe custody and £5,000 war bonds of £1,000 each to be exchanged for one bond of £5,000. It contains also a receipt by Spellen for the return of bonds for £5,000.

I produce a letter from Spellen of 24th October 1930 to Augustus Young, Exhibit 77.

I produce a copy of a letter, Exhibit 78, of 10th October 1930 to H. Rowbotham, bearing the initials H.J.S./F.F. attached to the letter is a part of a label, addressed "Norman, 2 Hi[illegible] L[illegible]". the rest of the address is missing.

I produce Exhibit 79, a receipted account of John Morgan & Sons Ltd. 42 Copthall Avenue, of 7th May 1930 addressed to Spelling, 52 Cornhill, relating to the removal of fittings to 52 Cornhill and writing letters "F. Jackson & Co." on the office door at 52, Cornhill.

In the cash book, Exhibit 71, is an entry: "By Morgan, £27.11.9" which is the amount of the account Exhibit 79.

I also found carbon copies letters written to Augustus Young from 42, Cornhill bearing the reference H.J.S./M.P. forwarding securities for sale, and some of them shewing the names of Clients, Exhibit 80, and I find that the proceeds of the securities were used in payment of shares in Asbestos & Holdings Trust Limited.

I produce also the acknowledgements of Augustus Young of those letters, addressed to A. J. Klein, also in Exhibit 80

I produce two memorandum books, Exhibit 81 containing entries shewing a record of orders received from clients 185 for the purchase and sale of securities from 6th May 1930 onwards. These books appear to be in Spellen's handwriting.

The cash books do not record any payment to or receipt of any money from H. Guest.

In the private ledger is an account headed Guest. 16 items are debited to his account in March 1930, amounting to £31,875.12.7.

The cash book shews those as payments to James, Asbestos Consolidated Mines, H. Geen, Manning, A. Young and M. Singer.

There is no credit to that account.

At the foot of it is a note that all the above items are charged on Guest's instructions.

The private ledger of the Company is produced, Ex. 82.

I produce, Exhibit 83, a bundle of bought and sold contract notes from Augustus Young on the account of H. Guest, relating to transactions of Broad Street Press.

I produce, Exhibit 84, two receipts from Augustus Young

of 7th and 25th August 1930 acknowledging the holding for safe custody on Guest's account of £35,000 war bonds.

As to H. Green on Green.

The Company's cash books and paid cheques shew payments to H. Geen as in Schedule produced, total £14,042.15.0, Exhibit 85.

I produce a bundle of contract notes from Ashford & Co. on H. Green's account for purchase of Edison Bell shares to the value of £14,000, Exhibit 86, and a number of slips from Ashford & Co. to Harry Green relating to the purchase of shares in Fisher's, Foils and Sweets & Wells, also in Exhibit 86.

Produced Exhibit 87 are the paid cheques referred to in the Schedule, Exhibit 85.

As to Klein:

The cash books and paid cheques shew payments to A. J. Klein as shewn in the Schedule produced Exhibit 88, totalling £86,959.5.3.

The paid cheques are produced Exhibit 89, paid into Klein's account with Brown Shipley & Co.

On the Schedule Exhibit 88 is one item of £120 in 1928, the others are all from March 1930 to 2nd August 1930.

I produced a letter of 6th June 1930, Exhibit 90, from Augustus Young to Klein, acknowledging the receipt for safe custody of 4,500 Radio Corporation of America Common Shares.

I produce a number of contract notes from T. Gordon Hensler & Co. to Klein, between March to September 1930, Exhibit 91, and from Ashford & Co. and Crew & Co. to Klein, all in Exhibit 91.

As to Moncrieff:

Apart from a payment of £7.7.6. on 20th October 1928 Moncrieff appears to have received only a weekly wage.

As to the Business of the Company:

The Company published a 6d. weekly financial paper from 19th September 1928 to 15th October 1930, first under 186 the name of "City News and Stock Exchange Observer" up to 5th June 1929. Each copy bore the name "A.

S. J. Osborn, Editor". From 12th June 1929 to 31st July 1929 the paper appeared as "Finance" with which is incorporated City News and Stock Exchange Observer".

On 7th and 14th August 1929 the title was "Finance without that addition.

From 21st August 1929 to 15th October 1930 it appeared as "Finance and Stock Exchange Observer".

The name Norman D. Spencer first appears as editor on the issue of 11th September 1929 and thence on each issue to the last.

I produce one copy of each number of the paper between 19th September 1928 and 15th October 1930, Exhibit 92.

The issue of 23rd April 1930 first contained a "Stock & Share Department" which was continued in each number after that.

At a meeting of 13th October 1930 at Elman's office the minute book shews a resolution that a draft agreement for sale of the Company's business to Throgmorton Press Ltd. was approved for sealing.

I produce Exhibit 93 an agreement executed by Throgmorton Press Ltd. shewing that for £4,785 paid by Throgmorton Press Ltd. to Broad Street Press the Company
187 sold the good-will of its business of a newspaper proprietor, the copyright of Finance & Stock Exchange Observer, list of subscribers and the file of correspondence with its subscribers and readers, furniture and office equipment at 2 Broad Street Buildings and £1,497.6.11, being the amount standing to the credit of Broad Stret Press Ltd., in their No. 2 account at Barclays Bank, Bishopsgate.

The Cash Book, Exhibit 63, shews the receipt by Broad Street Press of £4,785 under date 17th October 1930.

I produce the Cash Book of Throgmorton Press Ltd., Exhibit 94. It shews under date 15th October 1930, a receipt of £6,000 also the pass book of that Company, Exhibit 95, shewing the payment in of that sum into the National Provincial Bank Ltd., Finsbury Circus Branch.

On the same date is a payment out of £4,785 for a banker's draft.

I produce that draft, Exhibit 96.

The £6,000 was in Bank Notes, according to the Pass Book.

I have traced that £6,000 as coming from the account
188 of H. Wise at the North of Scotland Bank Ltd., drawn out of that account by A. J. Klein.

Up to the end of February 1930 Broad Street Press apparently confined itself to running the paper "Finance" and selling various speculative shares through the market.

I have closely examined the Cash Book. Up to the end of December 1928 subscriptions to the paper amounted to £613, and the Company's total receipts amount to £20,613.

The difference between those two figures is represented by loans of £28,000 and other miscellaneous items.

I produce a book entitled "Stock Exchange" "It's Methods and Practice" by A. S. Osborn; Exhibit 97. It appears in the Company's newspaper as sent out early in 1929 and the accounts show that up to 19th February 1929 over 35,000 copies had been distributed to clients.

An analysis of the cash books for 1929 shews the total receipts of the Company £83,045, of which £78,000 is shewn as loans.

The receipts for 1930, up to October, total £1,622,920.16.0. of which £1,619,736.12.5 was received during the 8 months March to October.

The receipts from March to October were cash received from Clients and proceeds of sale of shares and securities received from clients. There were no loans during that period.

I produce Exhibit 98 a schedule shewing details of the monthly receipts.

The cash book, Exhibit 63, shews in January and February three cheques amounting to £1,720, *i. e.*

17 Jan.	£500
30th Jan.	£500
22nd Feb.	£720

described as cash.

I have traced those cheques as coming from the account of H. Wise at the North of Scotland Bank, drawn by Klein.

The total receipts of the Company from incorporation to end of February, 1930, were £115,848 of which £108,720 is shewn by the books to have been loans.

For March, 1930, the receipts were £102,352.5.9, no part of that being shewn as loans.

I find no loans from March to October, 1930. The bulk of that £102,352.5.9, represents moneys received from clients or proceeds of sale of securities received from clients for re-investment in Asbestos & Holdings Trust Ltd.

I find from the correspondence between the Company and its clients that about 10th March, 1930, clients were advised to invest in Asbestos & Holdings Trust Ltd. shares at par 5/-.

Between March and June, 1930, the Company sold 1,072,686 shares in Asbestos & Holdings Trust Ltd. for £297,405.18.6. and I produce two amounts paid by Broad Street Press to Asbestos & Holdings Trust Ltd., on 20th March, 1930, £30,000 and 24th June, 1930, £22,500. I produce the two cheques Exhibits 99 and 101.

(Note: There is no Exhibit 100.)

Just prior to that purchase by Broad Street Press, Broad Street Press had bought back from clients Sunbeam Press-work & Conveyors Ltd. shares to the value of £4,734.4.0. Deducting that figure from £297,405.18.6. because the books show that the Company got those shares from clients instead of cash, the amount received by the Company is £292,671.14.6.

The net profit to the Company is therefore £240,171.14.6.

Up to the end of February, 1930, the banking account of Broad Street Press was at Barclays Bank, Bishopsgate.

On 21st March, 1930, a further account was opened at the Midland Bank, Gray's Inn, at which Elmon had his account.

I produce three circular letters printed relating to Asbestos & Holdings Trust Ltd., Rhodesia Border Mining Corporation Ltd., and Vulcan Copper Mines Ltd., Exhibits 102, 103 and 104.

I produce a letter of 10th March, 1930 to John M. Maxwell, Exhibit 105 and another of 5th March to W. Lenton, Exhibit 106 both signed Norman D. Spencer and a further letter to Maxwell of 29th March, Exhibit 107.

Towards the end of May, 1930, according to the books the sale of Asbestos shares practically ceased and on 28th April 1930, Vulcan Copper Mines was registered in Southern Rhodesia.

On 21st May, 1930, I find that clients of Broad Street Press were circularised, as in copy circular produced Exhibit 108. The shares mentioned in that circular had not been bought by the Company in large numbers.

I produce a letter to Mr. Maxwell of 27th May, Exhibit 109.

I find that Broad Street Press sold 22,452 Edison Bell shares for £167,567.10.4. mostly at 14/- a share.

The majority of the contracts are dated round about 26th May.

I find that on 12th June the Company sent prepaid telegrams to the purchasers of Edison Bell shares advising the sale of Edison Bell shares at 23/- and reinvestment of the proceeds in Vulcan Copper Mines at 10/- and as a result Broad Street Press purchased from its clients 211,669 Edison Bell shares at 23/- for £241,149.14.0 showing a profit to clients and a loss to the Company of £73,633.3.8.

190 The Company sold 247,137 Vulcan Copper Mine shares to clients at 40/- as a result of the Edison Bell transaction.

The Company sold 60,729 Guy Motor shares at 15/- for £45,894.15.6. and repurchased 59,610 shares at 19/- for £56,627.4.0. shewing a profit to clients of £10,732.8.6. the bulk of which was reinvested in Vulcans.

By the end of July, 1930, the sale of Vulcan Copper Mine shares had practically ceased and in the middle of July Clients were advised to buy shares of Sweers & Wells at 15/-. I produce a circular letter, Exhibit 110.

On 31st July clients were advised by telegram to sell Sweers & Wells at 21/- and to reinvest in Rhodesia Border Mining Corporation Ltd., at 10/-.

The Company sold 60,729 Guy Motor shares at 15/- for 162.13.9. of which they repurchased 114,347 shares from clients for £118,767.15.6. a profit for clients of £24,605.1.9.

In September, 1930, clients were advised to buy shares in Triplex Safety Glass at 25/- and a little later to sell out at 35/- and invest the proceeds in Rhodesia Border Mining Corporation Ltd.

The Company sold 62,778 Triplex shares at 25/- for £80,709.16.6. and repurchased 98,328 shares at 35/- for £100,774.9.10. shewing a profit to clients and loss to the Company of £20,064.13.4. the bulk of which was reinvested in Rhodesia Border Mining Corporation shares.

The Company sold 805,305 Rhodesia shares for £478,817.10.6. but they also delivered 251,095 Rhodesia shares for £144,973 to clients who had instructed them to purchase Vulcans. I produce Exhibit 111 a sample of the correspondence passing between the Company and clients in such cases.

The total sales of Rhodesia shares was then 1,056,400 shares for £623,790.10.6.

The only payment for the Rhodesia shares in the books of the Company is £33,000 on 29th August, 1930, cheque produced Exhibit 112.

The profit shewn in £580,790.10.6.

In my evidence of the 2nd January I stated that the profit to the Company on the sale of Vulcans was about £600,000. That figure should be £456,988.11.9. The explanation
191 being that the first figure was the profit on the sale of 1,237,013 shares, but this has to be reduced by £144,973, the value of shares sold as Vulcans but in respect of which clients received Rhodesia shares.

The total profit made by the Company by the sale of Asbestos, Rhodesia and Vulcan shares was £1,287,950, less £129,035 the losses incurred in the Edison Bell, Guy Motors, Sworn & Wells, and Triplex Glass transactions, making a net profit of £1,158,915.

As to H. Wise:

The cash books shew payments to H. Wise, from 13th June 1930 to 27th October, 1930, inclusive, amounting in all to £709,180.

I produce the cheques on the Midland Bank, Exhibit 113, and the cheques on Barclays Bank, Exhibit 114 for those payments. I produce Exhibit 115 a Schedule of those payments.

As to J. Wise:

The cash book Exhibit 63 shews a receipt on 2nd October, 1928, of £5,000 "Loan, J. Wise."

That book and the cash book Exhibit 71 also shew the payments in 1930, to J. Wise:

9th April	£ 250.	
22nd May	1,700.	
26th June	106.1.9.	Total £2,341.1.9
and 10th Sept.	285.	

30th Jan. 1931. *Recalled:*

I produce the cheque for £245 dated 23 April, 1930, Ex. 117.

I also produce the cheque for £2,353.15.8 dated 24th April 1930, Exhibit 118.

192 In addition to the £14,000 mentioned in Ex. 96 I produce a cheque for £575—dated 20 May, 1930, drawn on the

Broad Street Press account at the Midland Bank Ex. 119 to S. Green.

I produce the cheque for £6000 dated 15th October, 1930, signed pp. H. Wise, Arthur J. Klein Exhibit 120.

I also produce the three cheques amounting to £1720 shown in the cash book Exhibit 63. Exhibit 121 for £500, Exhibit 122 for £500, Exhibit 123 for £720.

I produce also the cheque for £285 dated 10th September, 1930, drawn on the account of Broad Street Press to cash Exhibit 124.

Further as to Broad Street Press Ltd.

From the File of the Company I find that a large number of persons were employed by the Company for the purpose of selling shares about 20 persons in all. There is no record in the Company's books of any payment to those persons.

In the correspondence is a frequent reference to calls by these various persons on clients or prospective clients.

Towards the end of August, 1930, clients were beginning to make claims for rescission of contracts on the ground of fraudulent misrepresentation.

I produce some of the correspondence Exhibit 125 and I refer to letters in the cases of Miss Cheetham, Mr. Nilmo, Sir H. French, Miss Napier, Mr. Hartley, Mr. McArthur, Joseph Smith and George Hope.

The last payment to employees in the wages book is dated 24th October, 1930.

The minute book Exhibit 64 shows that on 27th October 1930 a meeting was held at which the voluntary liquidation of the Company was considered. It shows that A. J. S. Osborn and A. Parts, Directors, and Messrs Reid Sharman & Co. Solicitors and Mr. I. Levy, Accountant, were present.

The balance at the Bank at the close of the day before that date is shown by the pass book to have been £6,642.17.5.

On 27th October a cheque for £6000 was drawn, with other cheques to H. Wise. It is one of the cheques in Ex 193 number 114. After certain other sums were drawn out a balance of £508.9.1 remained which was collected by the Official Receiver.

On 27th October it was resolved that a Meeting of Shareholders be convened for the purpose of going into voluntary liquidation.

The Minute book shews a meeting of shareholders held on

28th October at which A. B. J. Osborn, A. Paris and J. H. Osborn were present as shareholders. No one else is stated to have been present.

A resolution "That the Co. be wound up voluntarily" was passed and "that Mr Isaac Levy be appointed Liquidator."

The Minute book shows another meeting on 28th October – a meeting of creditors, present A. B. Osborn, I. Levy and Mr Trudgeon, Solicitor, advising Levy. The Minute records that no creditors appeared etc.

My investigations show that there were in fact creditors of the Company at that time – but not many.

The Petition was presented on 27th October 1930 by Miss Oerum.

My investigation shows that prior to March 1929 there were no books kept showing the purchase and sale of shares.

In the cash book Ex. 92, on 7 July 1930 is a receipt of £25,000 and £10,000. Produced is a cheque for £10,000 drawn by H. Wise on 7th July 1930 on the N. of Scotland Bank to cash and cleared through the Midland Bank, Grays Inn Branch, the Company's Banking account Exhibit 126.

I find that the Company were selling shares in Vulcan Copper Mines and Rhodesia Border Mining Corporation Ltd as principals.

As regards Vulcan Copper Mines Ltd the Contract Ex. 58 refers to mining rights in Southern Rhodesia and S. W. Africa. These two districts are about 1000 miles apart as the crow flies with the Kalahari desert between them.

As to Throgmorton Press Ltd.

I have also acted as Examiner in respect of the Throgmorton Press Ltd.

I produce the Company's cash book Ex. 94. It shows the payment of £6000 on 15th October 1929 into the Company's account at the National Provincial Bank, Finsbury Circus. The pass book is Ex. 95. On the same day is a payment out of £4785 for a banker's draft. That £6000 was received from A. J. Klein.

The Company was registered with a nominal capital of £10,000 in £1 shares. Four shares have been allotted. Two to the signatories to the memorandum and one each to the two Directors: Cyril Alfd Hannan Harris and Geo. Edwd. Reginald Wheal. The signatories to the Memorandum were

clerks in the employment of Messrs. Reid Sharman & Co. Solicitors.

The paid up capital at the date of the winding up Order was £2—which was paid by the two directors on 29th November, the date on which the Petition for compulsory winding up was made.

The Winding up Order was made on 15th December.

I produce the Minute book of Throgmorton Press Ltd. Exhibit 127. It shews that a meeting of Directors took place on 14th October 1930 at the then registered office in the office of Reid Sharman & Co. at 35 Bedford Row. It re-
194 cords that a draft of the Contract for the purchase by Throgmorton Press Ltd. of the newspaper "Finance" and other assets from Broad Street Press Ltd. was produced.

When the Provisional order for the winding up of Broad Street Press Ltd. was made I found that some furniture and practically all the correspondence files of that Company were missing.

On 11th November I attended the offices of Throgmorton Press Ltd. and found a number of filing cabinets containing correspondence between Broad Street Press and clients; and some furniture which was afterwards identified by a boy named Shortlands.

Throgmorton Press Ltd. was formed to publish a newspaper and published a 6d weekly paper called "Financial Observer." I produce three copies of that paper of 29th October, 5th and 12th November, Exhibit 128. It had the same "make-up" as "Finance" the paper of the Broad Street Press.

I did not find the original cheque book of the Company—The Throgmorton Press Ltd.

The cash book does not shew any receipts from sales of newspapers.

From the Statement of Affairs which was filed by Mr. Harris, Director, on 22nd January 1931, I find that assets estimated to produce £2,315.11.7, liabilities to eight unsecured creditors £416.15.4, shewing a surplus of £1,874.16.3 over creditors to meet the claims of shareholders.

Other liabilities amounting to £6030.4.6 are shewn as not expected to rank—including £6000 claimed by Broad Street Press Ltd.

195 The offices of Throgmorton Press Ltd. were at Ludgate House, 110-111 Fleet Street.

Cross-Examined for J. Wise:

Referring to Ex. 63 and the entry of 2nd October 1908—"Loan, J. Wise £5000"—there is no other evidence that J. Wise lent £5000 to Brond Street Press.

I only know what is on the entry in the cash book.

Looking at Ex. 124 there is no indication on that cheque that J. Wise received that cheque or the proceeds of it. The cheque is payable to cash and is unendorsed. It has the crossing stamp of Barclay's Bank, Knightsbridge.

Cross Examined for Spellen:

I believe the persons whose correspondence is in Ex. 125 are alive. I do not know for certain. I do not know them and I do not know their handwriting. They can be called to produce their correspondence.

Recalled next page.

12 Feb. 1931. *Recalled*:

I now produce a cheque for £1700 dated 22nd May drawn by Brond Street Press Ltd. to J. Wise and endorsed "J. Wise," Exhibit 142, and a cheque for £250 of 9th April also drawn by Brond Street Press Ltd. in favor of J. Wise and endorsed "J. Wise," Exhibit 143.

Those are two of the cheques referred to at the end of my evidence given on the 16th January 1931.

CYRIL THOMAS NEWMAN.

30 Jan. 1931. JOSEPH WALLIS HILL on Oath saith:

I am an Examiner in the Department of the Official Receiver in Companies Liquidation. I have had the conduct of the winding up of Rhodesia Border Mining Corporation Ltd.

The Petition was presented on 8th November 1930.

The Official Receiver was appointed Provisional Liquidator on 10th November.

The Winding up Order was made on 24th November.

The Directors were Alexander Fraser and Sidney Aston Redrup, both of Buluwayo, and Jesse Hill and Harry Brignell of London.

Hill and Brignell were the only Directors who held the required qualification shares of 100 each.

197 They did not pay for the shares themselves. I cannot say definitely who did pay.

I produce a copy of the Memorandum and Articles of Association EXHIBIT 131..

Article 47 provides that the management of the business shall be vested in the Directors.

My investigation shews that the business of the Company was not managed by the four directors.

The Articles No. 37 provide remuneration of £200 a year to the Chairman and £300 a year to be divided between the other directors.

My investigations shew that Hill received £50 as Chairman for one quarter and Brignell £25 for one quarter.

I produce an Agreement between the Pretoria Mining Estates Co. Ltd. and the Rhodesia Border Mining Corporation Ltd. dated 6th August 1930 EXHIBIT 132 reciting that the Pretoria Company as Vendors are possessed of or otherwise well and sufficiently entitled to certain copper bearing properties and the Lomagundi District copper areas in Southern Rhodesia and referring to three properties, one in South West Africa and the other two in Southern Rhodesia. Between Southern Rhodesia and South West Africa is the Kalahari Desert and about 1000 miles.

The Agreement provides for the purchase by the Rhodesia Company from the Pretoria Company scheduled proper-

198 ties being all mining and other rights in certain developed mineralised blocks of copper claims.

The consideration was £600,000 payable £12,000 in cash and the balance at the option of the Company either in cash or by allotment of 1,176,000 Rhodesia shares of 10/- each credited as fully paid up.

The £12,000 cash was not paid but the 1,176,000 shares were allotted.

The date of completion was to be 31st October 1930, and the Agreement is signed for the Pretoria Company by Ira C. Ozanne, Director. It does not bear the Company's seal.

It is also signed by Jesse Hill for the Rhodesia Company over a 6d. stamp..

I produce the Minute Book of the Rhodesia Company EXHIBIT 133. Under date 6th August 1930 is a Minute recording the signing of that Agreement at 80A Coleman Street and

shewing as present: J. Hill, H. Brignell, Director and J. C. Benoy, Secretary.

Apart from that Agreement I have found no documents of any kind as to the existence of those properties in Africa or shewing that such properties were owned by the Company.

I can find no record of completion having taken place on 31st October as provided in the Agreement.

On 27th October the Pretoria Company applied for an extension of time for a further two months, by letter produced signed Ira C. Ozanne EXHIBIT 134 and that was agreed to by this letter of the 30th October Copy produced, EXHIBIT 135.

On 25th August the Pretoria Coy. wrote the Rhodesia Press this letter EXHIBIT 136 nominating Broad Street Press to receive 1,176,000 Vendors Shares at 10/- each.

I produce EXHIBIT 137 a copy of a letter from the Rhodesia Co. to Broad Street Press dated 15th August 1930 as to the grant of an option on 257,000 further shares of 10/- each at par.

With the purchase of 66,000 shares, the allotment of 1,176,000 shares and the option on 257,000 shares, Broad Street Press had all the shares of the Rhodesia Coy. with the exception of 200 that went to the Directors and 800 shares that went elsewhere.

On 29th August 1930 Broad Street Press applied for 66,000 shares at par, application produced EXHIBIT 138 signed A. S. J. Osborn.

A cheque for £33,000 was paid into the Co's banking account on 15th September 1930. I produce the Company's Paying in book EXHIBIT 139.

I find that the Pretoria Coy. sold the whole of the Vendors' shares to H. Wise, 2 Broad Street Buildings, for the gross sum of £33,000 as in contract note Ex. 51.

On 21st August 1930 the Pretoria Co. wrote the letter Ex. 52 to T. W. Webb & Co. Ltd. instructing them to deduct £4000 and to sign a commission letter to Elman and pay him that sum and on the same day I find that T. W. Webb & Co. undertook to pay Elman £4000 as in the copy letter Ex. 54 and Ex. 55 is Elman's receipt for that sum. On the same day T. W. Webb & Co. wrote to H. Wise the letter Ex. 53 undertaking to deliver the shares.

I produce correspondence to the Rhodesia Co. from Broad Street Press between 2nd September and 31st October 1930 giving lists of nominees EXHIBIT 140.

The Statement of Affairs of the Rhodesia Coy. was lodged with the Official Receiver on 6th January 1931 by Jesse Hill and Harry Brignell. It shews Certificates for 1,049,281 200 shares issued, all except 200 shares to the London directors were issued through Broad Street Press.

It shews cash at Bankers £29,413.18.4 and other property including interest in mines in Rhodesia and South West Africa purchase price per contract £600,000 estimated to produce £6000 and total assets £35,413.18.4. Total liabilities £7,141.6.3, including seven unsecured creditors for £1,123.17.6 and other liabilities £6000 being the reduced balance of cash consideration payable to vendors of property in Rhodesia and South West Africa. There is shewn as due to Preferential Creditors £17.8.9. The estimated surplus for shareholders is shewn as £28,272.12.1 to meet liability to shareholders of £621,100 shewing a deficiency of £592,827.7.11.

There is a note as to the explanation of the Directors as to the reduced value of assets other than cash, at £6000 *i. e.* as to interests in properties, in South West Africa and Southern Rhodesia. They say "Though we believe these properties have a potential value far in excess of this figure we are unable to state what they are estimated to produce and merely quote this sum which it is understood the Vendors will accept, as balance of purchase consideration."

W. J. Wallis Hill.

201 12 Feb. 1931. Albert Simon Joseph Osborne on his Oath saith:—

I live at 33B Clanricard Gardens, W. 2.

Shortly before September 1928 I was a Clerk in the employment of Newman Williams & Co. outside brokers of 42 Copthall Avenue.

While I was so employed I was introduced to the man whose photograph is Exhibit 20. I knew him as Walker.

I was introduced to him in Copthall Avenue. I cannot remember by whom. Shortly after the introduction I met him again and saw him from time to time at the office of Newman Williams & Co. I don't know what he called there for.

He asked me if I would like to become a director of a Com-

pany. He did not at the time name the Company. He said he was going to bring out a high class financial newspaper.

I knew nothing about the running of a newspaper.

I cannot remember telling Walker that but I think I must have done.

He did not at that time tell me who the other directors would be.

He said my chief job would be to see to the money, to safeguard the money. He said there would be a fair amount of money at the bank.

He did not then mention who the Editor would be.

This would be some time shortly before September 1928.

I saw him 2 or 3 times in all before a meeting at Elman's Office.

I arranged with Walker that I should be a director of the Company and I was to receive £100 a year.

I did not then know Walker's address or anything about him.

At one of the interviews Walker told me the brother in law of the Solicitor to the Company would be one of the directors.

About 12th September I attended a meeting at Elman's Office at 27, Lincoln's Inn Fields. Mr. Paris, Mr. Elman, Mr. Osborne, the Secretary, were present. I think Mr. Moncrieff was there.

Klein was not present.

Mr. Walker explained that he was going to start a paper and that Mr. Paris and I were to be the 2 directors, 202 that I was to receive £100 a year, and Mr. Paris the same, and I believe it was then that Walker said I was to be the Editor of the paper. The name of the Company was to be Broad Street Press Ltd.

I was allotted 1,998 shares at that meeting.

I had not applied for those shares.

I paid no money for those shares.

I don't know if any money was ever paid for them.

I don't think I ever inquired.

5,000 shares were allotted at that meeting altogether.

I continued in the employment of Newman Williams & Co. as a Clerk.

At lunch time I used to go to the office of J. Wise at Broad Street Place and I used to wait for Mr. Moncrieff who would bring cheques for endorsement and sometimes

cheque books to be signed up in blank by me, having already been signed by Parts.

I was the Editor of Broad Street Press. In fact I had nothing whatever to do with the running of the paper. I never wrote any articles for it. I did not know who was the real Editor of the paper. The name of the paper was "The City News."

I would sometimes see Mr. Walker when I called at J. Wise's Office at Broad Street Place, also sometimes Mr. Spelten. I think I saw the accused J. Wise there once or twice.

Monerieff paid me my director's salary weekly.

Before the last 5 or 6 months of the existence of the Company, my work for the Company took about 5 minutes a day. Sometimes there would be piles of cheques for signature, but usually it took 5 minutes or so a day.

I know nothing of the working or management or business of the Company. I took no part in it.

My salary was increased to £4 a week, and later to £6 a week.

I saw the paper weekly at first, but later I did not get it unless I asked for it, and then I had to wait so long that I often bought one.

Later the title of the paper was changed to "Finance," the Editor then being Norman D. Spencer. I was not consulted about the change of name or the change of Editor. I never discovered who Norman D. Spencer was.

I used to ask Monerieff now and again how the Company was prospering.

It came to my knowledge that the Company were buying and selling shares.

During 1930 instead of going to see Monerieff daily, I used to go and see Walker at an office in Copthall Avenue daily at lunch time. Walker told me to ask for him there in the name of Guest.

I signed and endorsed cheques again there.

Usually the cheques had been for small amounts, 5/-, 15/- or 30/-. One day in the spring of 1930 I noticed the cheques were for larger amounts.

I said to Walker then: "Do you deal in shares?"

He said, "Yes," and said they'd made a lot of money for clients, subscribers of the paper, and he said, "I'll show you today's mail."

He brought in a number of letters and I read some of them.

thanking the Company, for money made by the Company for clients.

The cheques were for hundreds and thousands of pounds.

At Walker's office in Copthall Avenue I think I saw the accused Spellen once or twice.

That course of business went on through the summer of 1930.

I know 15 Copthall Avenue.

I went there about the end of October 1930 on a telephone message. I saw the shorter of the two Greens there.

204 B. Green. He met me and took me there. I saw the accused Newbery in the office doorway. I did not speak to him.

In the room I saw another man, in an inner office, an elderly man. He handed me some lists, with share numbers, allotment sheets, and asked me to initial the allotment sheets.

The allotment sheets are produced to me, Exhibit 144, all initialled by me.

They are dated various dates from July 2nd onwards. I had not seen them before October. I put the dates on them in consequence of something I was told.

The allotment sheets are all in respect of Vulcan Copper Mines.

I initialled those sheets at that office in October.

On that occasion I also saw those letters in Exhibit 56 relating to Vulcan Copper Mines also dated various dates from July to October 1930.

I signed those letters over the stamps. They were already complete, except for signature. They are all on Broad Street Press notepaper.

At that time October 1930 I cannot say if Broad Street Press still had offices.

205 Other lists were looked for that meeting, but they weren't there, and the elderly man asked me to go back the next day. I forgot about it and did not go.

About a week later I went to the office in 15 Copthall Avenue again alone. I saw a clerk. The name on the office was African "something or other" Corporation. I went there because of forgetting to go the day after the meeting. No allotment sheets were there and I did nothing.

On or about the day I signed the allotment sheets I went to another office at Broad Street House, and there I signed some letters on Broad Street Press paper. That was at

Green's request B. Green. I left the letters there, relating to shares in either Rhodesia Border Mining Corporation Ltd. or Asbestos Holdings Trust Ltd.

At 15 Copthall Avenue I also signed some letters relating to another Company, either Rhodesia or Asbestos.

Some of the letters in Exhibit 140 are letters I signed at 15 Copthall Avenue and relate to Rhodesia Border Mining Corporation.

In the course of my duties I met Klein. Exhibit 16 is his photograph.

I first saw him in the Autumn of 1928, and saw him after that casually in the street and once or twice in the offices of Broad Street Press and 2 or 3 times at 42 Copthall Avenue. I never received any instructions from him in regard to Broad Street Press.

I saw Spellen from time to time at the offices of Broad Street Press sitting at a desk or coming out of a room.

I believe I have seen J. Wise at the office of the Company, once or twice.

The first time I saw Elman was at the meeting at his office on October 12th. I saw him at most of the meetings of the Company after that. I never saw him at the offices of the Company.

Looking at Exhibit 65, bill of costs as to certain actions, one *A. S. J. Osborne* v. *Truth Publication Co. Ltd.*

I knew nothing at all about that action. I did not know that action was being taken in my name against the Truth Publication Co. Ltd. I was not consulted in any way.

206 I knew nothing about any of the other actions referred to in Exhibit 65. I was not consulted as to any of them.

This is the original minute book of Broad Street Press Limited, Exhibit 64. The minutes are signed by me.

The minutes of 14th May 1930 records the appointment of Reid Sharman & Co. as Solicitors to act for the Company in consultation with Mr. Elman. I was never given any reason for that.

I was never asked to give my views on any matters of the Company.

The minute of 13th October 1930 refers to the sale of the Company to Throgmorton Press Ltd. I saw the draft agreement for the sale. I was not consulted as to the sale of the business. I don't think I signed that minute on the day of the

meeting, but I think I signed it at the next meeting. I sealed the agreement.

Later on I saw Mr. Levy at 27 Chancery Lane and at a meeting of the Company on 27th October 1930 it was resolved to go into voluntary liquidation. Elman is not recorded in the minute as being present.

I attended a meeting at Winchester House on 29th October.

Klein never attended any of the meetings of the Company.

The minutes in Exhibit 65 do not fully state all the persons present at the meetings. Walker was sometimes present, but his name is not in the minutes.

207 When my salary was raised Mr. Walker said he would give me a rise and he did so. I did not perform any more onerous duties. He was a generous man.

I did not pry into the affairs of the Company.

In the cover of Exhibit 97 "The Stock Exchange, its methods & Practice," is a compliment slip bearing my name as Editor. I had nothing to do with compiling that book and I did not know that slip was being used in that book. I first saw it sometime last year and I got them to give me a copy.

I did not know that Broad Street Press Ltd. were employing canvassers to go round selling shares.

I knew nothing at all about the Vulcan, Rhodesia or Asbestos Companies.

It did come to my knowledge that the Company were selling large numbers of shares in those Companies.

I carried out my director's duties in the clerk's office. I heard of the sales of those shares in the Clerk's office.

The circular Exhibit 102 as to Asbestos shares purports to bear my stamped signature. I did not know that such circulars were being disseminated. I did not know anything of the circular letters Exhibits 108 and 110 or of Exhibits 103 and 104. I knew nothing of any circular letters being sent out.

After the meeting at which Mr. Levy was present, I went to 2 Broad Street Buildings but on what I was told I did not go to my usual room.

I knew nothing about the assets of the Company.

In connection with the winding up of the Company I acknowledged receipt of the duplicate forms for prepara-
208 tion of the statement of affairs and I signed an application for leave to incur expense.

In the file Exhibit 109 I am described as a journalist. I have never been a journalist. I never authorized that description of myself.

The meetings of the Company were generally held at Ellman's office. I cannot recall anybody other than Walker as being present and not mentioned on the minutes.

Affidavit Simon Joseph Domaney.

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12 Feb 1931. Affidavit Evans on his Oath saith.

I live at 76 Homeleigh Road, Stamford Hill.

I am the brother in law of the accused Ellman.

I became a director of Broad Street Press Ltd.

During the summer of 1928 I was introduced to a Mr. Walker, I saw him 3 times before I became a director. 209 The third time he told me he was forming a Company to run a newspaper and he wanted me to be a nominee a director, and I agreed.

He said I would get £100 a year. I was then employed by Sparklets Ltd. as a traveller.

I was introduced to Walker in the lounge of the Regent Palace Hotel.

I did not ask Walker why he was choosing me as a director. I had only seen him twice before.

He told me I would not control the Company but only sign cheques and attend meetings.

He told me it was a usual thing to have nominees as directors. He said he was going to run the Company.

I knew I was to have a no director.

I attended a meeting at Ellman's office at which I was allotted 3,000 shares in the Company Broad Street Press Ltd. I did not pay for those shares. I had not applied for them. I knew nothing about them.

I carried out the duties of director as outlined by Walker. I signed blank cheques. The cheque books were sent to my home and sometimes sent on to me when I was travelling in the provinces.

I did nothing beyond signing blank cheques and attending meetings.

I never went to the offices of Broad Stret Press Ltd. because I was never asked to go.

Having signed the blank cheques I would send them back to the Company's address at Broad Street Buildings

I received my salary: It was sent on to me each week

I knew nothing at all about Companies

I never made any inquiry about the Company or its business and was never told anything about it

210ª I attended meeting of the Company at the offices of Ellman at Lincoln's Inn Fields

I have seen before a book like Exhibit 64 which the Secretary Mr Osborne had I never looked at it

Beyond those persons stated in the minutes as attending the meeting Mr Walker attended most of the meetings His name is not recorded

There was no talking at all at the meetings except when Walker was there When he was there Walker did the talking When he was not there we simply passed the resolutions on the agenda which had been communicated to us by Broad Street Press Ltd

Generally Mr Osborn (director) Mr Osborne (Secretary) Walker & Ellman and I were present at the meetings

If Walker wasn't there that left Mr Osborne, Ellman and I There was no talking about the business of the Company

The Secretary was a clerk employed by Ellman

I never met any other persons than those I have mentioned in connection with the Company

The paper published by the Company was sent to me every week When it was the "City News" I noticed the Editor was stated to be A E J Osborne I thought he was the Editor I never inquired

Court

He was my co-director We only met at the meetings

I understand he was the Editor

Further Examined

I saw the book "Stock Exchange, Its Methods & Practice" I noticed that A E J Osborn was stated to be the author of it I never inquired about it

I never saw the Company's bank pass book

I never saw any books of the Company except the minute book

I knew the business of the Company was the publishing of a financial newspaper.

211 I did not know the Company was selling shares until the end of last year when the writs were coming in about October 1930. Then I realised there were actions as to share transactions. I went to see Reid Sharman & Co. and sent the writs on to them. I was served with some of the writs.

I was surprised to receive the writs.

I mentioned it to Elman, at his flat. I told him I was taking them to Reid Sharman and the matter was left there. I understood that at that time Reid Sharman & Co. were solicitors to the Company and not Elman.

I look at the minute of 14th May 1930. It is clear from that that Reid Sharman & Co. were appointed to act in consultations with Elman. I was present at that meeting.

I cannot recollect whether Elman was present at the meeting of 27th October 1930.

I did not know that Broad Street Press Ltd. were selling shares in the Asbestos, Rhodesia or Vulcan Companies.

I never authorised any payments to Elman in respect of any matters relating to the Company.

All the cheques I signed were in blank when I signed them.

I never knew that Elman was defending actions which had been brought against the Company. I never authorised that.

212 I knew about the libel Action against "Truth." I did not authorise it and I was not consulted about it.

ALBERT PARIS.

213 12 Feby. 1931. ALFRED PERCY SPRANGE, on his Oath saith:

I live at 122, Lyttelton Road, Golders Green.

I am not now in employment.

In July 1930 I was temporarily employed by the African Construction Corporation Limited, 15, Copthall Avenue. They had no office and I had a seat in a room of T. W. Webb & Co. Ltd. at 5, Moorgate Buildings.

Mr. Brett and Mr. Smith (Secretary) were connected with T. W. Webb & Co.

Mr. Sterling was connected with the African Consolidation Company.

I saw the normal Newbery daily at 15, Copthall Avenue.

At 5, Moorgate Buildings I saw him about five times only.

I became a director of Vulcan Copper Mines Ltd. Newbery asked me to be a director. My co-director in England was a Mr. Bonnard. My remuneration was £100 a year, which was paid by the Company. I took some part in the business of the Company the only part of the Company's business that was operating was the drawing and issue of certificates. I took part in that.

Exhibit 98 an agreement with Permanent Investments Ltd bears my signature. I was called to 15, Copthall Avenue on 27th June to sign it, by either Mr. Brignell or Mr. Sterling. I saw there Mr. Bonnard and I think Mr. Brignell and Mr. Sterling were both there. Mr. Ozanne was not there. I am not sure if Newbery was there.

15, Copthall Avenue were Newbery's offices.

I know nothing about the properties mentioned in Exhibit 98.

The first thing I knew about the matter was when I was asked to sign the agreement.

The consideration was £12,000 cash and some shares.

The Company had not got £1,000 at that date. The Company's banking account had not then actually been opened.

In due course the names of the allottees were supplied by Broad Street Press Ltd. I took part in allotting the 214 shares, from about 3rd July, 1930. We had on 30th June received application for 66,000 shares from Broad Street Press Ltd. and £33,000 by their cheque.

Exhibit 144 are the allotment sheets.

Allotments continued down to sometime in October, about the 20th.

Application was never made to the Stock Exchange for permission to deal in the Company's shares.

The Company never conducted any business that I am aware of.

I took no part in the preparation of the circular letter, Exhibit 104, as to Vulcan Copper Mines. I never authorised it. As far as I know no particulars were ever furnished by Vulcan Copper Mines Ltd to Broad Street Press Ltd.

I know Mr. S. Brignell. He is employed at 15, Copthall

Avenue. I don't know by whom. I should say the real person at 15, Copthall Avenue is Mr. Newbery.

In September 1930 I took part in the preparation of allotment sheets for the Rhodesia Border Mining Corporation Ltd. at the request of, I believe, Mr. S. Brignell.

Produced, EXHIBIT 145, are the allotment sheets.

I had no connection at all with the Rhodesia Company. I knew nothing at all about that Company.

I was not paid anything additional for that. I took instructions from S. Brignell. He worked at Throgmorton House, 15, Copthall Avenue. I was at 5, Moorgate Buildings.

I prepared those allotment sheets from the Counterfoils of the Certificates, because the original lists had been cut about owing to Broad Street Press having sent in so many alterations.

I wrote a great many of the Rhodesia Certificates and sealed them. They had then already been signed by the directors.

I think Mr. Hill was present at the sealing, but not often.

215 I entered up part of the share ledger—from A-E—upon Mr. Brignell's instructions.

I got the money for the stamp duty by cheque drawn on Permanent Investments Ltd. by Newbery. I cashed the cheque and bought the stamps. The cheques were for between £100 and £200.

I have been to 25, Victoria Street, the registered office of Vulcan Copper Mines and to Throgmorton House, 15 Copthall Avenue where the Company's business was transacted. No business was transacted at 25, Victoria Street.

I wrote up part of the share ledger of Vulcan Copper Mines, from L to Z. Mr. Leme wrote up the rest. He is employed at 15, Copthall Avenue. I wrote up my part at 5, Moorgate Buildings from the nomination lists handed to me by Mr. Brignell. The lists did not differentiate between cash shares and vendors shares and there is no distinction shewn in the two ledgers.

Produced, EXHIBIT 146, is the journal of the Vulcan Company. It shews the allocation of shares. I entered those particulars early in November from information supplied to me either by Mr. Sterling or by Mr. Norris.

Mr. Norris is a Chartered Accountant and auditor for several companies round about 15, Copthall Avenue.

I have known Newbery about 30 years. I was first em-

ployed by him in 1899 or 1900, and until 1916, and then again in 1929 until about three weeks ago.

My qualification as director of the Vulcan Company was 100 shares, value £50. They were allotted to me on 30th May by Permanent Investments Ltd. the Vendors.

I saw a draft of the agreement, Exhibit 58, before 27th June. I don't know whether Sterling or Brignell shewed it to me, and one of them asked me to sign the fair copy.

Referring to the minute of 19th June 1930 in the Minute Book, Exhibit 56, no such Meeting as there referred to was ever held.

In Exhibit 56 is a minute of a meeting on 27th June 1930 at 25, Victoria Street. No meeting took place at that address.

But a meeting took place at 15, Copthall Avenue, at 216 which Bonnard and I and Sidney Brignell were present.

I am not certain if Mr. Sterling was there. That is a minute of what took place at that meeting. The minutes in the minute book are in two handwritings. I think Mr. S. Brignell wrote some of it, and the Secretary, Mr. Smith, wrote the rest.

The minutes were not written up at the time of the meeting. Records were kept at the time, but the minute book was all written sometime early in November.

Neither of the meetings, mentioned in the document on the file Exhibit 47 headed "Special Resolutions, Vulcan Copper Mines Ltd." were ever held at 80, Coleman Street. But informal meetings took place at 15, Copthall Avenue upon the dates mentioned.

I signed that document at the request of, I believe, Mr. Brignell.

Mr. Newbery told me it was necessary to increase the Company's capital in order to take over additional mines.

As director of the Vulcan Company I have never come across any document shewing title to any properties, in Rhodesia or S. W. Africa. I asked Mr. Newbery about it and he fixed a day when he would shew me plans and reports at a round table Conference. That was in September or Oc-
217 tober or later. That was after some of the shares had been issued. Up to then we knew nothing except what was stated in the agreement. I did not know that the specified properties were 1,000 miles apart. The round table conference was never held.

Cross-examined for Newbery:

Newbery never put documents of title on the table or shewed any to me.

On 27th June Vulcan Copper Mines had no money at the bank.

The agreement provides for completion on 15th August 1930. At that date the Company had round about £28,000 at the bank, so that there was plenty of money to complete.

Completion was postponed because there was a question of amalgamation with some other companies.

That £28,000 was not added to afterwards, but that sum remained to the credit of the Company at the bank until the Official Receiver took it over.

In some cases Brignell gave me cheques for the stamps, and on two occasions Newbery did so.

At Victoria Street the Company had only a staff of two, quite insufficient to deal with these transfers, which were therefore dealt with at 15, Copthall Avenue.

Mr. Brignell paid me my salary.

I never heard that I was employed by the Mezzanine Syndicate. I was paid sometimes by cheque and sometimes by cash.

The cheques were those of the African Construction Corporation, not of the Mezzanine Syndicate.

Re-examined:

The £28,000 was part of £33,000 paid by Broad Street Press.

ALFRED PERCY SPRANGE.

218 18th February 1931. ALFRED HENRY BONNARD on oath saith:

I live at 73, Inverness Terrace, W. 2.

I am a Commission Agent in mining properties.

I know the accused Newbery for the past 20 years at least. His offices are at 15, Copthall Avenue, where he carries on the business of promoting companies, mainly in mining.

I have seen names of companies on his office door, such as The Suvaroff, the African Construction Co., and the Nile Valley, General Mining and Finance.

I have not seen Newbery's name on the door.

In March 1930, I had a conversation with Newbery about some property in Rhodesia and another property in the Lomogundi district as to which I had also spoken to him previously. He told me he had been engaged in negotiating the purchase of the Rhodesia property for some time and that he wanted me to be a director of a Company to carry on an enterprise in connection with the two properties, to be called the Vulcan Copper Co. and I became eventually a director of the Vulcan Copper Mines Co. Ltd. I agreed to become a director somewhere about March 1930.

I was shewn copies of documents about the properties by Newbery, especially relating to the Rhodesia property. I had knowledge as to the S. W. Africa property.

My renumeration as director was £150 a year at first.

I knew that Mr. Sprange would be my co-director. I had recently met him, but very rarely.

I attended Board Meetings of the Company.

My director's qualification was 100 shares, which were allotted to me. I don't know who paid for them. I did not.

The board meetings were held mainly at 15, Copthall Avenue. No board meetings were held at the registered of-
219 fices, 25, Victoria Street. It was more convenient to hold the meetings at 15, Copthall Avenue for purposes of allotment.

Exhibit 56 is the minute book of the Company. The meetings are all recorded as taking place at 25, Victoria Street. Twenty or more of the minutes are signed by me. I did not sign those minutes on the dates when they purport to be signed. I signed them in November, on two or three dates in November, I think.

Mr. Sprange or Mr. Brignell brought the minutes to me for signature. I think it was Mr. Sidney Brignell.

The minute book, Exhibit 56, was not in existence at the date when meetings were held prior to November, as far as my memory goes. The minute book came into existence in November. It was compiled from the sheets of paper which are now in the minute book, Exhibit 56. I did not sign all of those sheets of paper at the time of the meetings, they were signed, most of them, when the minute book was prepared—in November.

Some of the minutes were prepared by Mr. Brignell, some by Mr. Sprange and some by the Secretary, Mr. Smith. I had very little to do with the clerical work.

I would be summoned to meetings by telephone, by Mr. Brignell or a Clerk in the office at 15, Copthall Avenue, Mr. S. Brignell was not an officer of the Company.

Mr. S. Brignell, Mr. Sprange and I would be present at the meetings.

The capital of the Company was £200,000 in 10/- shares—later increased to £600,000 in 10/- shares in July 1930, as shown in the file. Exhibit 47. I did not know the capital of the Company was being increased. I did not know that it had been increased until the new shares were being issued.

I cannot say who told me of the increase of the Capital of the Company, it may have been by Brignell, Newbery or Sprange. I had not been consulted.

By Court:

I did not receive a summons to attend the meeting at which the capital was increased.

I did not express surprise when I was told of it.

I left the clerical work of the Company to the others.

Further Examined:

The only minute of the Company bearing on it is under date 3rd July, 1930. There is no record in the minute
220 book of any resolution of the Company for the increase of capital.

By Court:

I have been director of other companies, but not many. I did not pay much attention to the work being done at 15, Copthall Avenue. I had perfect confidence in what they did.

Further Examined:

I think I was shewn a draft agreement between Permanent Investment Ltd. and the Vulcan Company. I believe by Newbery or S. Brignell.

I took no part in those negotiations.

I thought very highly of the property and that the purchase price was very reasonable. I think very highly of the property now. I mean of the Rhodesia property and the Lomagundi property in S. W. Africa.

I never saw any document shewing actual title to the

properties while I was a director of Vulcan Copper Mines Ltd.

I signed the Statement of Affairs of the Company in which the property is valued at £6,000, with an explanation appended to the Statement.

221 The Company had 6 months previously agreed to pay £512,000 for those properties.

I did not know how the consideration for the purchase had been arrived at. I did not raise any question as to the purchase price when I saw the draft agreement.

I signed the agreement, EXHIBIT 58.

I did not myself take any steps to find out whether the Vendors were the actual owners of the properties they were selling to the Company. I trusted Mr. Newbery.

By Court:

If I had put any of my own money into this Company, I might still have taken another man's word, but as a rule one would inquire and satisfy oneself.

Further Examined:

I knew there was a considerable distance between the two properties. I did not know there was a desert between them. No independent report on the properties was obtained by the Company. I had seen reports on the dumps of the Rhodesia property. Mr. Newbery shewed them to me, and a year before I had seen one which had come from the Lomagundi mine.

The agreement, Exhibit 58, states that particulars of development plans of working, details of mineral values, and reports of mining engineers are available. I did not see any such documents, but I had discussed them with Mr. Pearson a year before. I believe the reports are now in the hands of the Board of Trade.

I have seen two days ago a report made by Mr. Pearson which is now in the hands of the Board of Trade, sent to them, I believe, by Mr. Newbery's Solicitor.

When the agreement was entered into, 27th June, 1930, I had an idea how the purchase price was to be paid, the Company had nearly £30,000 in the Bank.

222 I see in Exhibit 56, a minute of 4th July resolving that Barclays Bank be appointed bankers to the Company.

When I signed the agreement the money was not in the bank but Newbery told me he had made arrangements to pay that money into the bank. I did not inquire where the money was coming from. He made his arrangements and £33,000 was paid into the bank a few days afterwards. I had never known Newbery fail on an obligation and I was definitely told so.

There was nothing for a director to control at that time. There was nothing but the inauguration of the Company.

At that time, 27th June, I had not received any remuneration as director.

I received £50 for two quarters. £25 for each of two quarters, or it may have been £37.10.0.

I saw and endorsed the cheque for £33,000, EXHIBIT 60. Mr. Newbery brought it to me. It is drawn by Broad Street Press. I did not ask Newbery about the cheque. I did not know the money was to come from Broad Street Press. I endorsed the cheque and handed it to Mr. S. Brignell to pay into the Company's account.

As to this letter, EXHIBIT 61, from Permanent Investment Ltd. to Vulcan Copper Mines Ltd. nominating Broad Street Press to receive 1,000,000 shares. I did not see that letter.

I do not know who provided the money for the registration of the Vulcan Company.

I signed the cheque, Exhibit 57, for £830 dated 9th July, drawn in favor of Klein. I believe that was in respect of the registration of the Vulcan Company. I did that by
223 direction from 15, Copthall Avenue. Mr. Newbery or somebody in the office told me that we were indebted to Klein in that sum for expenses of registration. No voucher or receipt was shewn to me when I signed the cheque, Exhibit 57. Completion has never taken place.

I don't know who prepared that agreement. I think the work was done at 15, Copthall Avenue. I don't know where the offices of Permanent Investments were. I've met Mr. Ozanne there, at 15, Copthall Avenue. He and Newbery were the only two directors of Permanent Investments Ltd.

As far as I know I had not seen the nomination letters inside the cover of Exhibit 56, before I saw them at the office of the Official Receiver.

The Vulcan Company did not to my knowledge carry out any work on the properties in Africa.

I know nothing of the two directors of the Company in Africa apart from their names.

No one was sent out by the Vulcan Company to investigate the properties, but someone was sent out by the Permanent Investment Co., that was Mr. Pearson, and I believe small cheques were sent to Mrs. Pearson on his behalf.

I took no part in making out the share certificates. I signed them at 15 Copthall Avenue, except as to a few which I signed at Sprange's office. Once or twice I saw the seal of the Company affixed. We empowered Brignell to affix the seal.

Beyond the conterfoils in the cheque book, I saw no accounts of the Company. I neved inquired if any books were kept. No auditors were appointed.

When I signed share certificates I did not know whether they were in respect of cash or vendors shares.

224 I never saw the circular, Exhibit 104. I never authorised Broad Street Press Limited to send out that circular as to the Vulcan Company.

Cross-Examined for Elman

I never saw the accused Elman. He never acted in any way for the Company.

ALFRED HENRY BONNARD.

18th February 1931. ARTHUR FREDERICK SMITH on oath saith:

I live at 65, Powerscroft Road, Clapton.

I am an unestablished clerk in the Civil Service.

I know a Mr. Sidney Brignell very well. I knew him in 1928, and through him I became a director of T. W. Webb & Co. Ltd. I took no active part in the business of the
225 Company. I was merely a nominal director and only signed cheques, occasionally bank transfers, and, I think, also share transfers at 15, Copthall Avenue.

I never attended a board meeting of the Company. I knew nothing whatever of the business transacted by the Company.

I resigned my directorship about November 1930 after attending at the office of the Official Receiver in the matter of the Vulcan Company.

In March 1930, Mr. Sidney Brignell asked me if I would accept the secretaryship of a Company, which I later found to be the Vulcan Copper Mines Ltd. The appointment was offered to me as a nominal and temporary one.

I signed the covering documents for the registration of the Company at 15, Copthall Avenue.

The next thing I did was assisting in the allocation of the share certificates. I held no shares myself. I did not keep the register of members.

In July, I attended the office of the Company at Brignell's request and signed the authority for opening the Company's banking account. I used to meet Brignell 3 times a week and he would tell me if I was wanted at 15 Copthall Avenue. I got all my instructions from Brignell. I did not keep a minute book. At a later date, on 10th November, I wrote the minutes of three meetings in Exhibit 56, at Brignell's request, *i. e.* those of 3rd, 4th and 7th July. I copied them from typewritten sheets which Mr. Brignell handed to me.

I am reported as being present at the meetings in those minutes. I was not so present.

I did not know until the winding up proceedings in November of any resolution for increase of the capital of the Company.

I never attended the registered offices of the Company at 25, Victoria Street. All I did was done at 15, Copthall Avenue.

I never saw any incoming correspondence with the Company nor was I consulted upon any.

226 I never saw or heard of the letter, Exhibit 61, nominating Broad Street Press to receive 1,000,000 shares.

On several occasions I signed letters to Broad Street Press relating to their nominees, they were brought to me sometimes by Mr. S. Brignell and sometimes by Mr. Stirling.

I remember signing some in October bearing dates in June or July.

I signed blank sheets of the Company's note-paper. I may have signed a dozen.

In July I attended at 15, Copthall Avenue on Brignell's instructions and signed share certificates, some already prepared and some in blank. The seal of the Company had not been affixed when I signed the certificates.

I never saw the agreement, EXHIBIT 58, until 10th November at the Examiner's office.

I never saw any document of title to any properties in Africa.

Sometime in July or beginning of August I signed six cheques, one to Broad Street Press, the others in blank. The cheque to Broad Street Press was, as far as I can remember, for £3,300.

I never kept any books in connection with the Company.

On 7th November with Mr. Sprange I went to 15, Copthall Avenue and saw Mr. Newbery, Mr. Brignell and Mr. Stirling.

That was after I'd seen the Official Receiver.

227 Newbery asked generally what had happened and Mr. Sprange and I reported to him what had happened and told him that they were contemplating winding up the Vulcan Company. We discussed the effect of that, and as to whether the assets of the Company should be removed to Buluwayo. I knew there was £28,000 at the bank. Mr. Sterling and Mr. Newbery took a principal part in the discussion.

ARTHUR FREDERICK SMITH.

18 Feby 1931. JESSE HILL on his oath saith:

I live at 9, Spring Street, Hyde Park, W. 2.

I am a mining engineer.

I have known the accused, Newbery, five years.

I became a director of Rhodesia Border Mining Corporation Ltd. at his invitation.

228 My remuneration was to be £200 a year. I held 100 shares. I don't know who paid for them.

My co-director was Mr. Harry Brignell and the Secretary was Mr. T. Beony.

There were two directors in Buluwayo whom I did not know.

The registered offices were at 80A, Coleman Street, E. C.

I received on account my remuneration one cheque for £50 for one quarter.

I did not know Mr. Harry Brignell before I became a director.

Exhibit 133 is the minute book of the Company. I don't know who kept that book.

No board meetings were held at the registered office of the Company, 80A, Coleman Street.

Meetings were held at 15, Copthall Avenue.

Several companies were housed at Newbery's offices at 15, Copthall Avenue. I can't give the names of any of them.

In Exhibit 133 is a minute of a meeting on 5th August at 80A, Coleman Street. No such meeting was held. The minute says I was present. That is untrue.

There is also a minute of a meeting on 6th August at 80A, Coleman Street. No such meeting was held there. No memorandum of agreement was produced at the meeting. The minutes of those two meetings purport to be signed by me. They bear my signature. I signed them sometime in October or November at the request of Mr. Sidney Brignell.

Several other minutes in Exhibit 133 are signed by me. I signed those altogether at the same time at 15, Copthall Avenue at the request of Sidney Brignell.

As to the agreement, Exhibit 132, I was never consulted as to that agreement between my Company and the Pretoria Mining Estates Co. Ltd. I know nothing about that latter company.

I never saw any document shewing title to those properties in Africa. I discussed the matter with Newbery, who shewed me plans and reports and I had already seen
229 samples of ore from the properties, shewn me by Newberry, he told me they were from the properties.

I did not know that the whole of the Vendors shares were allotted to nominees of Broad Street Press Ltd.

I never saw this letter, Exhibit 136, nominating Broad Street Press to receive 1,176,000 Vendor shares, nor this letter, Exhibit 137, of 15th August 1930 nor this letter, Exhibit 138, of 29th August 1930.

I never inquired as to the value of the properties in Africa. I signed the agreement because Mr. Brignell asked me to.

I made no inquiry as to where the consideration was to come from.

I knew nothing about the banking account of the Company. I signed cheques on the Company's account, cheques which had already been drawn. I signed share certificates in blank.

None of the business of the Company was transacted at the registered offices of the Company. It was all transacted at 15, Copthall Avenue.

I never saw this cheque, Exhibit 112, drawn by Broad Street Press in favour of my Company for £33,000.

I never in any way controlled the management of the Company. I do not know who did. My only interest in the Company was my remuneration for my services, which were the signing of necessary documents, which I signed without making any inquiry.

I never discussed the affairs of the Company with my co-directors or with the secretary.

The Company came to an untimely end and we had no time to do any business.

James Hiss.

18 Feby 1931. Harry Brignell on his oath saith:

I live at 47, Londesborough Road, Stoke Newington.

I am a commercial traveller.

I have known the accused Newbery about four years.

I have a brother Sidney Brignell. I don't know who employs him. I know he is in the same office as Mr. Newbery at 15, Copthall Avenue, the offices as far as I knew of the African Construction Company.

I became a director of the Rhodesia Border Mining Corporation Limited at the request of my brother.

I did not see Newbery about it.

My remuneration was to be £100 a year. I heard from my brother that I had been made a director.

I had 100 shares in the Company. I do not know who paid for them.

My duties mainly consisted of signing share certificates and blank cheques, that was at 15, Copthall Avenue, except as to a few share certificates which I signed at 5, Norfolk Buildings, the office of T. W. Webb & Co. Ltd.

I did not know the directors in Bulawayo.

Meetings did not take place as recorded in the minute book, Exhibit 133. I am recorded as present at meetings—that is untrue. I met the other people mentioned in the minutes at 15, Copthall Avenue, but not at meetings of the Company.

The agreement, Exhibit 132, was not produced at a meeting of 6th August as recorded in the minute book.

I do not know who wrote up the minutes in Exhibit 133.

I knew nothing of any such resolution as is mentioned in the minute of 18th August and I know nothing of the letter of 15th August, Exhibit 127, nor of the matters referred to

in the minute of 27th August, nor of the letter, Exhibit 136, of 25th August.

I have seen the agreement, Exhibit 132, before, after the winding up. I had no knowledge of it at the time it was executed. I did not know where the consideration was to come from.

My brother shewed me several papers as to the properties in Africa. I took no particular notice. I don't think I saw any documents of title.

I see that the consideration in Exhibit 133 is £600,000 which my Company was to pay for properties in Africa.

232 I never saw any documents satisfying me that there were properties in Africa worth that sum.

At no time at all did I have any control of the management of the affairs of the Company. I can't say who did control the Company.

I signed the statement of affairs in the winding up of the Company in which the property in Africa was estimated to produce £6,000 with a note that in our opinion the potential value was much higher. I know nothing personally as to the potential value.

By the Court:

I can't say who first mentioned the figure of £6,000. It wasn't I.

We were at the Board of Trade, four of us, Mr. Hill, Mr. Sprange, Mr. Bonnard and I. No, it was only Mr. Hill and I and the Secretary. It must have been Mr. Hill who mentioned the £6,000. Mr. Hill said that was the figure that was given by the Vulcan Copper Mines.

Further Examined:

I knew nothing at all about the property in Africa.

HARRY BRIGNELL.

18 Feby 1931. THOMAS CAPEY BENOY, on his oath saith:

I live at 38, Fairfield Road, Bromley, Kent.

I am an accountant employed by J. Turner Norris, 19, St. Dunstan's Hill, Chartered Accountant, who audits the Ac-

counts of a number of companies at 15, Copthall Ave-
233 nue, including Mayblossom Mining Co. Ltd., Ranfontein Extension Co. Ltd. etc., African Construction Corporation, whose registered offices are at that address.

I have known the accused Newbery eight years.

In July 1930 I was asked by Mr. Sidney Brignell to become Secretary of a Company which turned out to be the Rhodesia Border Mining Corporation Limited.

I had known Sidney Brignell for eight years, as employed by the African Construction Corporation. Sidney Brignell was a clerk employed by Newbery.

I did not discuss my sercetaryship with Newbery.

I held no shares in the Company.

I signed the application for registration of the Company.

I did not then know Mr. Jesse Hill or Mr. Harry Brignell. I met them at 15, Copthall Avenue, not frequently.

I knew nothing of the two directors at Buluwayo apart from seeing their names.

As Secretary I did not have charge of the minute book. I only saw it, Exhibit 133, at the Official Receiver's office. I had nothing to do with compiling the minutes. I think Mr. Leme wrote them. I don't know when.

The registered offices were 80A, Coleman Street the office of a chartered accountant. I never conducted any of the affairs of the Company there.

I knew nothing about an agreement between the Company and the Pretoria Company.

I did not know of the sale of shares to Broad Street Press except that I signed some letters about it, Exhibit 13, is one of them.

I did not see the agreement, Exhibit 132, until the winding up proceedings. It is signed by Ozanne, director for the Pretoria Company. He is Mr. Newbery's agent in Guernsey.

I never saw any documents shewing title to any properties in Africa.

I signed the form for opening the banking account of the Company on 8th August 1930. A cheque for £33,000,
234 Exhibit 112, was paid in on 15th September. I endorsed that cheque and paid it in. I received it from Mr. S. Brignell, Newbery's clerk.

I did not see the letter, Exhibit 138, until the winding up proceedings.

I signed share certificates at 5, Moorgate Buildings, the office of T. W. Webb & Co. Ltd. and 15, Copthall Avenue. Some I signed in blank. I was rather busy. I did not know what they were for.

I have seen the Company's statement of affairs on the day it was signed by the directors. I prepared it in conjunction with my principal Mr. Norris.

He also prepared the statement of affairs of the Vulcan Company. I helped him.

I don't know how the figure of £6,000 was arrived at as to the value of the properties.

I did nothing in connection with the business of the Company except what I was told to do. I had no real knowledge as to what I was doing.

THOMAS CAPEY BENOY.

235 EXHIBIT 1.

15, Chondos Road,
Cricklewood.
N. W. 2.

13th August, 1928.

Mr. P. J. Groom.
119, Bishopsgate,
E. C. 2.

Dear Sir,.

I confirm my telephonic conversation with you whereby I offered you £250 per annum for the offices in Broad Street Buildings, and trust you will see your way clear to accept this offer.

In order to expedite the matter I am giving below three references:—

Barclay's Bank Ltd.,
311, High Holborn,
W. C.

Burnett L. Elman (Solicitor)
27, Lincoln's Inn Fields,
W. C.

Sydney Savile Esq.,
42, Copthall Avenue,
E. C.

Your early reply to my offer will oblige.

I am,
Yours faithfully,
(Sgd) J. WISE.

236 EXHIBIT 2.

August 23rd 1928.

J. Wise Esq.,
15, Chandos Road,
Cricklewood, N. W. 2.

Dear Sir,

re No. 2, Broad Street Buildings.

With reference to your offer of £260, per annum for the Offices on the second floor at above—this appears to be satisfactory but my Client will definitely deal with it on his return on Monday next. In the meantime I have given instructions for the necessary repairs to be proceeded with at once.

Yours faithfully,

237 EXHIBIT 3.

J. WISE.

2, Broad Street Place,
London, E. C. 2.
13th November 1928.

Telephones:
London Wall 4033-4
SM/HG

P. J. Groom, Esq.,
119, Bishopsgate,
London, E. C. 2.

Dear Sir,

The Directors and members of the Broad Street Press, Ltd., who occupy the seven offices leased by me at No. 2, Broad Street Buildings, have approached me with a view to my transferring the lease into the name of their Company.

I understand the matter has been placed before Mr. Rose, and subject to certain conditions he has agreed to transfer the Agreement in my name to the Broad Street Press, Ltd.

For the purposes of your record I now wish to state that I am perfectly willing to allow this transfer to be made, as I appreciate how necessary it is for the Broad Street Press, Ltd., to have the tenure of the offices in which they are now established and where they are making such remarkable progress.

Yours faithfully,

J. WISE.

238 EXHIBET 4.

THE CITY NEWS
and
Stock Exchange Observer.
A Weekly Guide for Investors and Speculators.
Edited by A. S. J. Osborn.
Proprietors.
Broad Street Press Limited.

Telegraphic Address:
AVE.
LONDON.

Telephones:
Bishopsgate
5668
5669.

Directors:
A. J. S. Osborn.
A. Paris.

DM/L.

2, Broad Street Buildings,
London, E. C. 2.
13th November 1928.

P. J. Groom, Esq.,
119, Bishopsgate,
E. C. 2.

Dear Sir,

In accordance with our telephonic conversation of to-day we confirm our acquiescence to take over the leases of the seven rooms now occupied by us at the above address for a tenure of Seven years with an option to extend to fourteen year or twentyone years on precisely the same terms as those contained in the lease now in existence.

The following particulars relate to those required for the preparation of the new lease:—

BROAD STREET PRESS LIMITED, Registered Offices 27, Lincolns Inn Fields, W. C. 2.

Secretary—Mr. Osborn, at the registered Office of the Company.

Yours faithfully,

A. S. J. OSBORN,
Director.

239 **Exhibit 7.**

BURNETT L. ELMAN
Solicitor.

27, Lincoln's Inn Fields,
London, W. C. 2.
21st August 1928.

Telephones: Holborn (6555 (6556 (5050.

Dear Sir,

In reply to your letter of the 17th inst. regarding Mr. J. Wise, I consider that this gentleman will make a respectable and responsible tenant for premises such as mentioned by you.

This information is of course given in confidence and without any liability.

Yours faithfully,

Burnett L. Elman.

Percy J. Groom Esq.,
119, Bishopsgate, E. C. 2.

240 **Exhibit 9.**

FNK. 27th July, 1928.

J. Wise, Esq.;
15 Chandos Road,
N. W. 2.

Dear Sir,

1/4 Broad Street Place—Rooms 146/9.

We understand that you have to-day visited the above offices and made a verbal offer to our representative on the premises to take them on lease at a rental of £350 p. a.

We do not know whether he has made it clear to you that in addition to the actual rental there are the following extra charges.

£1/10/- p. a. per room for corridor lighting and use of lift.

8/6 per week, per room for cleaning.

£3/3/- per annum for a name plate if required.

The rental that our clients are asking for these rooms is £360 p. a. but we will at once submit your offer upon having your confirmation of the terms.

We also understand that you will require one of the dividing walls demolished. Our representative will be happy to meet you upon the premises to go into this matter and also the question of decorations, upon hearing from you.

Yours faithfully,

241 EXHIBIT 10.

15, Chandos Road,
Cricklewood,
N. W. 2.
30th July, 1928.

Messrs Goddard & Smith,
22, King Street,
St. James, S. W. 1.

Dear Sirs,

In reply to yours of the 22nd instant, I beg to confirm my offer to you of £350 per annum for rooms 142/49, 1/4 Broad Street Place, in addition to the extra charges.

Will you kindly let me know as early as possible whether or not you accept my offer for these premises.

On receipt of your reply, I shall be pleased to interview your representative with regard to the demolition of one of the dividing walls.

Yours faithfully,

J. WISE

242 EXHIBIT 11.

FNK. 31st July, 1928.
J. Wise, Esq.,
15 Chandos Road,
Cricklewood,
N. W. 2.

Dear Sir,

1/4 Broad Street Place.

We are much obliged by your letter of yesterday's date confirming your offer of £350 p. a. for rooms 146/9 at the above address, plus the usual extra charges current in the building.

We will take this opportunity of pointing out that your letter states rooms 142/9 which is incorrect. We are at once submitting this offer to our clients in Liverpool with a recommendation of acceptance, subject of course to the references being satisfactory,—these we are taking up and in the meantime shall be glad to know the period for which you wish to take the offices, whether 3, 5 or 7 years or longer.

If you care to discuss the question of alterations in the rooms we shall be happy to keep any appointment you may like to make so that the work may be put in hand with the minimum of delay.

Yours faithfully,

243 EXHIBIT 13.

BURNETT L. ELMAN
Solicitor.

27 Lincoln's Inn Fields,
London, W. C. 2.
21st August, 1928.

Telephones: Holborn (6555
(6556
(5050.

Dear Sirs,

With reference to your communication to me in regard to Mr J. Wise, I consider that this gentleman will make a respectable and responsible tenant for premises such as named by you.

This information is of course given in confidence and without liability.

I regret the delay which has occurred owing to my absence from town.

Yours faithfully,

BURNETT L. ELMAN.

Messrs. Goddard & Smith,
22, King Street,
St. Jame's, S. W. 1.

244 EXHIBIT 14.

J. WISE.

2, Broad Street Place,
London, E. C. 2.
February 17th 1930.

Telephones:
London Wall 4033-4.
Messrs Goddard & Smith,
22, King Street,
St. Jame's,
London, S. W. 1.

Dear Sirs,

In regard to my Tenancy Agreement of Rooms 146-149 at this address, I regret to inform you that owing to abnormally bad business conditions, I am reluctantly compelled to ask your assistance for the release of my obligation in respect of the unexpired term of this lease.

As you know, I have no outstanding disbursements with you and in fact this is equally applicable to all with whom I have had any business connection, and I trust you will see your way clear to relieving me of any further responsibility in this matter.

I want to preclude the possibility if I can of your placing me on your "undesirables list" as when conditions in the City become more propitious, I should like to feel that I can again approach you unencumbered with a view to your acceptance of another lease in these or other offices under your jurisdiction.

Awaiting the courtesy of your reply,

Yours truly,

J. WISE.

245 EXHIBIT 16, Photograph of Klein.

Said photograph same as appears in Exhibit 2 and shown on page 107 of the record.

246 EXHIBIT 18.

Telephone: Holborn 7110.
Telegrams: "Globeman, London."
Code: A. B. C. (6th Edition. Date: 3/11/30.

MEMO.

From
The Premier Jewellers,
London, E. C. 1.
77 Clerkenwell Road.

To The Secretary,
Messrs Dodds & Son,
42, Cornhill, E. C. 4.

Dear Sir,

re Offices in the name of A. J. Klein.

Referring to our conversation with regard to the above, I have instructions from Mr Klein in connection with same, firstly to pay the outstanding amount, and secondly to give same up. I am ready to do both, and should be glad to hear from you what would be the amount that you would be prepared to accept in order to release him from having to give you 6 months notice? I shall be prepared to hand you these over immediately and also pay you the Rent due and some reasonable amount for the Release.

Trusting you won't be too hard with my friend who is at present away from England, and not too well off.

I remain,

Yours faithfully,

MAX GERSON.

247 EXHIBIT 19.

Telephone:
Mansion House 8616.

42, Cornhill,
London, E. C. 3.
5th Nov. 1930.

Mr Max Gerson,

Dear Sir,

As agreed today in consideration of your paying us the sum of £250 two hundred & fifty pounds on behalf of Mr A. J. Klein and making over to us the furniture & fittings at present in the office at 42 Cornhill we will release Mr Klein from any further obligation he may have under the Lease made on 24 September 1929 between ourselves & Messrs Dalrymple & Guest & also in settlement of all rent owing to date.

248 EXHIBIT 20, Photograph of Factor.

Said photograph same as appears in Exhibit 1 and shown on page 106 of the record.

249 EXHIBIT 21.

BURNETT L. ELMAN
Solicitor.

27, Lincoln's Inn Fields,
London, W. C. 2.,
3rd October 1930.

Telephones: Holborn (6555
(6556
(5050.

Dear Sirs,

Referring to your representative's call here on Wednesday in relation to Mr Joseph Wise of 15 Chandos Road, Cricklewood, N. W. I have no hesitation in stating that he is likely to make a respectable and responsible tenant of premises at the rental named by you, namely £600 per annum.

This information is of course, given in confidence and without any liability on my part.

Yours faithfully,

BERNERY L. BLEMAN.

Messrs The Property & Investment Co. Ltd.,
3 St. Bride Street,
E. C. 4.

250 Exhibit 24.

21st March, 1930.

Dear Mr Klein,

You have placed me in such an awkward position, that I am advised to write you once more.

To suit your own convenience you made an arrangement with me as to the offices at 14 Copthall Avenue, whereby I retained the big room and had the use of staff and other facilities.

You then found that you wanted all the accommodation at that address, and so you offered me the unexpired tenancy at 2 Broad Street Place rent free, about which I immediately made some arrangements with friends of mine to use with me, and you knew this, because you met me and two of my friends at the offices where I introduced you to them.

While I have kept the arrangements I made to suit your requirements, at considerable inconvenience, you make no attempt whatever to keep your word with me and thereby you are causing me serious loss for which I am compelled to hold you responsible, as you placed no restriction whatever on my occupation of your offices, in fact you said you would remove all names from the doors.

Shortly before you vacated the offices at 2 Broad Street Place, I warned you out of personal regard as to City views about the way in which you handled the Phantestra deal, and from conversations you had with myself and a friend we gathered that you were going to operate differently in the future, in fact you told us that you had served your connection with the paper "Finance & Stock Exchange Observer."

A day or two after, you specially asked me to do you a

favour and go over to 2 Broad Street Place, at once I learnt, quite unasked, that you had all your old associates in my offices, and that you had not severed your actual interest in the paper.

On Wednesday I again told you very clearly as to the determinedly antagonistic trend of influential financial quarters against you and your associates, and while you profess
251 to care little or nothing about the actual facts, I cannot afford to ignore the very decided views that are gathering great force in the City and therefore I must regretfully make it quite clear to you that the operations of your associates and yourself are, if continued, certain to damage my interests very badly, for in spite of what you say Messrs Mathiesons have at present not the slightest knowledge of the nature of your operations.

As you finally refuse to keep your word about the 2 Broad Street Place offices, the position to me is as follows:—

You have caused me a certain loss of £240 and possibly £480 or more, and because you asked for your tenure of 14 Copthall Avenue to be extended to six instead of three months, you caused me to immediately incur a further liability of £172.10.0 which I otherwise should not have incurred.

Against these items I have the sum of £104 to account for, which leaves me with an actual deficit of £308.10.0. besides which you have made a fool of me before my friends, and spoilt a good connection.

No one could have been franker with you than I have been, and as I know that it is only a question of time before serious trouble will arise for me over your associates' use of my offices (where by the way you have put up no names at all) I call upon you to pay me the sum of £308.10.0 at once and vacate the offices, and then I will surrender all claims on the offices at 2 Broad Street Place.

From a personal point of view I sincerely regret to
252 write to you in this way, but you leave me no option, and if you don't accept this suggestion at once, I must turn the whole matter over to my Solicitors.

Yours faithfully,

P.S. Reply to your remark this morning, if you are unable to appreciate the value of advice given you in a candid and friendly manner, you must not blame me, and threats are futile.

Vulcan Copper Mines Ltd.; Rhodesia Border Mining Corp. Ltd.: No application for permission to deal.

"Phantestra" (Renn's Gramophone and Wireless) Limited: Permission to deal in 840,000 shares *granted* 16.1.29, *Record withdrawn* 10.1.30.

Sunfruit Products Limited: Permission to deal in 310,000 shares *Granted* 20.11.29. *Record withdrawn* 10.1.30.

Metal Coating Co. Limited: Permission to deal in 500,000 shares *Granted* 22.11.29 and in a further 100,000 shares 20.2.30. The right to record was withheld from the 100,000 and was withdrawn from the 500,000 shares on 20.2.30. *Permission to deal withdrawn* 24.3.30.

Sunbeam Gramophone Record Co. Limited (subsequently Sunbeam Presswork & Conveyor Co. Ltd.): Permission to deal in 500,000 shares *Granted* 31.7.29. *Record withdrawn* 24.2.30. Permission to deal in further 500,000 shares *Refused* 26.2.30. Permission to deal in first 500,000 shares *withdrawn* 3.3.30.

Fisher's Foils Limited: Permission to deal in 3,730,000 shares *Granted* 4.2.29. *Record suspended* 15.8.30.

Australian and General Asbestos Co. Limited: Permission to deal in 351,507 shares *Granted* 20.7.28, and in a further 350,000 shares *Granted* 18.1.29 and in a further 200,000 shares *Granted* 29.1.30. The right to record was withheld from the last 200,000 shares and was withdrawn from the first two lots on 29.1.30.

Rosey Cross Asbestos Mines of Rhodesia Limited: Permission to deal in 1,400,000 shares *Refused* 16.12.29.

Automatic Records Player Limited: Permission to deal in 1,200,000 shares *Granted* 3.4.29. *Permission to deal suspended* 13.10.30.

Asbestos & Holdings Trust Limited: *No application for Permission to Deal.*

ARTHUR G. ANNEY.

4004 Exhibit 30

Butcher, Carey, Dalman & Co.
Accountants and Auditors

40 Queen Victoria Street,
London, E. C. 4.

8th June, 1950

The Secretary,
Fisher's Foils Ltd.,
44b Salisbury House,
E. C. 2.

Dear Sir,

We are acting for clients who are at present negotiating for the purchase of a 25% interest in your Company.

In view of the size of the transaction, and that our friends, who represent American interests, would, in the event of acquiring an interest and being satisfied as to the possibilities of the business, be prepared to find any reasonable sums of money required for its expansion, we shall be glad if, on their behalf, we could have an opportunity of going fully into the Company's present position and prospects including a general examination of the factory and the Company's records.

Needless to say, any report made by us would be entirely confidential and restricted to the persons instructing us.

Yours faithfully,

Butcher, Carey, Dalman & Co.

255 EXHIBIT 31.

FISHER'S FOILS LIMITED,
845-850 Salisbury House,
London Wall,
London, E. C. 2.

Ref. S/J/FF93.

10th June, 1930.

Col. J. Williams, C. B. E., V. D.
Col. J. F. Tyrrell, C. B. E.
Messrs. Butchart, Carey, Dalman & Co.,
49 Queen Victoria Street,
E. C. 4.

Dear Sirs,

My Chairman has requested me to thank you for your letter of the 5th instant and to say that if you will be good enough to let me know the names of your clients, and the names of those with whom your clients are negotiating, the matter will be submitted to the Board.

Yours faithfully,
(Signed) F. F. SHARLES,
Secretary.

256 EXHIBIT 32.

BUTCHART, CAREY, DALMAN & CO.,
Accountants and Auditors.

49 Queen Victoria Street,
London, E. C. 4.,
16th June, 1930.

The Secretary,
Messrs Fisher's Foils Ltd.,
845/850 Salisbury House,
London Wall, E. C. 2.

Dear Sir,

With further reference to your letter of 10th inst. we have to inform you that the enquiries are being made on behalf of Mr Burnett L. Elman of 27 Lincolns Inn Fields.

This is the only information that we are able to afford you at this juncture.

Yours faithfully,
BUTCHART, CAREY, DALMAN & Co.

257 EXHIBIT 33.

FISHER'S FOILS LIMITED,
845-850 Salisbury House,
London Wall,
London, E. C. 2.,
26th June, 1930.

Ref. S/J/FF94
Col. J. Williams, C. B. E., V. D.
Col. J. F. Tyrrell, C. B. E.
Messrs. Butchart, Carey, Dalman & Co.,
49 Queen Victoria Street,
E. C. 4.
Dear Sirs,

With further reference to yours of the 16th instant, it is suggested that the best way of dealing with the matter is for a preliminary meeting to be held at which you and your principals should meet the Chairman, the Managing Director and myself.

Can you arrange such a meeting some time next week?

Yours faithfully,
(Signed) F. F. SHARLES,
Secretary.

258 EXHIBIT 34.

49 Queen Victoria Street,
London, E. C. 4.,

S/J/FF94

2nd July, 1930.

BUTCHART, CAREY, DALMAN & CO.,
Accountants and Auditors.
The Secretary,
Messrs Fisher's Foils Limited,
845-850 Salisbury House,
London Wall,
London, E. C. 2.
Dear Sir,

We thank you for your letter of the 26th ulto, and regret that we have not acknowledged it earlier, but we are waiting to hear from our Principals regarding the suggested meeting.

We will communicate with you again immediately we are in a position to do so.

Yours faithfully,
BUTCHART, CAREY, DALMAN & Co.

259 EXHIBIT 35.

FISHER'S FOILS LIMITED,
845-850 Salisbury House,
London Wall,

Ref. S/J/FF94

London, E. C. 2.,
9th July, 1930.

Col. J. Williams, C. B. E. V. D.
Col. J. F. Tyrrell, C. B. E.
Messrs Butchart, Carey, Dalman & Co.,
49 Queen Victoria Street,
E. C. 4.

Dear Sirs,

With reference to our previous correspondence, I am instructed by the Board to say that they regret that they cannot accede to the request contained in your letter of the 5th June.

At the same time I am to add that the Board will be pleased to give you any particulars they can in the ordinary way, such as copies of the Directors' Report and Accounts, Chairman's Speech, etc.

Yours faithfully,
(Signed) F. F. SHARLES,
Secretary.

260 EXHIBIT 36.

49 Queen Victoria Street,
London, E. C. 4.,
10th July, 1930.

S/J/FF94
BUTCHART, CAREY, DALMAN & CO.,
Accountants and Auditors.
The Secretary,
Messrs Fisher's Foils Limited,
845-850 Salisbury House,
London, Wall,
London, E. C. 2.

Dear Sir,

We thank you for your letter of 9th inst., contents of which we note. We will communicate with our principals with regard to the matter,

Yours faithfully,
D/B. BUTCHARD, CAREY, DALMAN & Co.,

261 EXHIBIT 37.

BURNETT L. ELMAN.
Solicitor.

Telephones Holborn (6555, (6556, (5050

27 Lincoln's Inn Fields,
London, W. C. 2,
15th July, 1930.

Dear Sir,

With reference to the correspondence which has recently ensued between Messrs Butchart Carey Dalman & Co., on my behalf and your Company and my subsequent interview with your Chairman, Colonel Williams in order to endeavour to overcome the difficulties that have arisen and to meet the wishes of your Board as far as possible, I make the following offer.

For a period of twenty-one days from the date hereof, I will give your Company the right to offer my shareholding in the Company to your shareholders at par, subject to the whole of my shares, namely, 1,500,000 being taken and paid for within the aforesaid period of twenty-one days, the moneys in respect thereof being paid to me or my Bankers within the time limited. In the event of your Company failing to complete these arrangements, I am to be entitled to make full investigations to satisfy my American friends as to the soundness of the business and to have the undertaking of your Board that they will give me every facility and assistance to negotiate the sale of my interest in your Company. The price at which I am offering my shares, namely, at par, is that upon which my earlier negotiations were based, and your Board in dealing with these shares, will therefore be in a position of equal advantage with my American friends.

This offer is made subject to the acceptance of your Board not later than Friday next the 18th inst.

Yours faithfully,

BURNETT L. ELMAN.

The Secretary,
Messrs Fisher Foils Ltd.,
845-850 Salisbury House,
London Wall,
E. C.

262 EXHIBIT 38.

BURNETT L. ELMAN.
Solicitor.

27 Lincoln's Inn Fields,
London, W. C. 2.,
16th July, 1930.

Dear Sir,

With reference to my communication to you of yesterday's date, I confirm my conversation with Mr. C. J. Sharles today, when I agreed to allow the offer to remain open for acceptance until first post Tuesday morning next the 22nd inst. and at the same time I also agreed to allow the period of twenty one days mentioned in my yesterday's letter to be computed as from the date of acceptance of my offer.

Yours faithfully,
BURNETT L. ELMAN.

The Secretary,
Messrs Fisher Foils Ltd.,
845-850 Salisbury House,
London Wall, E. C.

In Pencil:
Tuesday,
What time is the Board?
11.0

263 EXHIBIT 39.

BURNETT L. ELMAN,
Solicitor.

27 Lincoln's Inn Fields,
London, W. C. 2.,
July 30th 1930.

The Chairman,
Messrs Fisher's Foils Ltd.,
845-850 Salisbury House,
London Wall, E. C.

Dear Sir,

I learn to-day with astonishment that the Managing Director of your Company, Mr. F. H. Fisher, is offering a very large block of the shares held by him in the Company for sale on the Stock Exchange.

As the biggest individual shareholder in the Company I should like an immediate explanation of this action. In view of the refusal to afford me the necessary facilities to obtain information of the working of the Company I can only assume that the Managing Director and the Board are in possession of knowledge that is adverse to the Company, and not in accordance with representations made at the General Meeting.

The complete failure of Mr. Fisher's prospectus promises; his efforts to dispose of his holding and the reluctance of the Board to allow proper facilities for ascertaining the Company's real position suggest that there is much of which shareholders are being kept in ignorance.

I must now ask you to give me by return the fullest possible explanation of this extraordinary state of affairs, and a definite statement as to what other Directors, if any, are selling, or have sold their shares. Unless I am completely satisfied, I propose under Article 63 of the Company's Articles of Asosciation to call upon the Board immediately to requisition an Extraordinary General Meeting of share holders in order that there may be a complete investigation of the Company's affairs,

Yours faithfully,
BURNETT L. ELMAN.

264 EXHIBIT 40.

FISHER'S FOILS, LIMITED.

845-850, Salisbury House,
London Wall,
London, E. C. 2,
8th August, 1930.

Directors:
Col. J. Williams, C. B. E., V. D. (Chairman)
A. Bacal.
Donald F. Fisher.
Sir Edgar J. Holberton, C. B. E.
Col. J. F. Tyrrell, C. B. E.
Frank H. Fisher (British-N Bohemian).

Dear Sir (or Madam),

As you are aware the Directors received notification from the holder of a substantial block of the Company's shares, that he had been approached by an American group with a

view to the latter acquiring his controlling interest. As the outcome of prolonged negotiations, this holder has now agreed to give the present shareholders first option to acquire his shares at par (1 each) and pending its expiration, the negotiations with the American group are to be suspended.

The position in the event of control passing to foreign interests has been pointed out to the shareholders and in the circular dated 10th July they were invited to communicate their views to the Directors.

The response of the shareholders was overwhelmingly in support of the Directors' steps to prevent the control passing to such interests, and since then a favourable report has been received from one of the Directors who is in the United States negotiating for the disposal of the Packing Machine Patents in that country and Canada.

Having regard to the favourable outlook for the Company, the Directors decided to give shareholders the opportunity of availing themselves of the above-mentioned concession; and in consequence these shares are now offered to share-
265 holders at the option price of 1/- net per share, to cover all charges, including stamp duties, fees, etc. This offer not only enables the present shareholders to avert the proposed change in the control of the Company, but enables them to obtain further shares at less than to-day's market price.

It is considered that the best method of dealing with these shares is to offer 500 to every shareholder whose present holding does not exceed 1,000 shares and 1,000 each to all other shareholders. The number thus allocated to you is _____, and I shall be glad to receive your cheque for £_____ in settlement by return of post. Cheques should be made payable to North of Scotland Bank, Limited, and crossed "A. C. Fisher's Foils Limited".

Yours faithfully,

F. F. SHARLES.

Secretary.

266 EXHIBIT 41.

BURNETT L. ELMAN,
Solicitor.

27 Lincoln's Inn Fields,
London, W.C. 2.
7th August, 1930.

Dear Sir,

Referring to our recent interviews and correspondence with various of your Directors relative to the 2,400,000 shares held by us in your Company, we hereby agree and undertake to deliver to you or shareholders applying direct, in response to the circular, a copy of which is enclosed herewith, effective transfers of shares at the price of 1/- per share, duly stamped with the appropriate ad valorum duty, for the quantities of shares applied for by the respective shareholders, whether such shareholders apply for the whole of the shares allocated to them in the last paragraph of the said circular, or any less number. The moneys received by you for sales of shares to be handed over to us or either of us against delivery of the aforesaid transfers.

We hereby acknowledge that the costs, charges and expenses in connection with and arising out of the preparation, printing and despatch of this circular, and any other circular that may be issued, including those incurred by reason of sales or transfers of the shares, are not a proper charge against the Company, and we agree and hereby undertake to bear and pay all such costs, charges and expenses and the stamp duties on transfers, and transfer fees on registration of transfers. Out of moneys received by your Directors or your Company as the price of shares sold by us, you are at liberty to deduct the costs, charges and expenses above referred to and at the end of two months from the date of this letter, you are to account to us for the moneys re-
267 ceived and expended, and to pay to us any balance that may be due to us. We, on the other hand, undertake to pay to you any sum that may be due in respect of the above

costs, charges and expenses which is not covered by the amount you may have in hand for that purpose.

Yours faithfully,
(Sgd) BURNETT L. ELMAN.
For and on behalf of London Exchange Limited.
(Sgd) G. A. WOOLEY.
Secretary.

The Secretary,
Fisher's Foils Ltd.,
845/50 Salisbury House,
London Wall,
E. C. 2.

268 EXHIBIT 42.

Copy.

FISHER'S FOILS LIMITED.
845-850, Salisbury House,
London Wall,
London, E. C. 2.
19th August, 1930.

Ref. CJS/B/FF94.
B. L. Elman,
27, Lincoln's Inn Fields,
W. C. 2.

Dear Sir,

As you know, the Committee of the Stock Exchange has suspended markings in the Company's shares, and numerous shareholders have written requesting further information in connection with your offer to them of the shares. Therefore, will you please let me know by bearer:—

(a) From whom you purchased the 2,400,000 shares, and when.
(b) Are you the absolute owner of such shares?
(c) The name of the American group with whom you are, or were, negotiating for the sale of the shares now offered to the shareholders.
(d) The names of the nominees who hold the 2,400,000 shares on your behalf.

Yours faithfully,
(Signed) F. F. SHARLES.
Secretary.

269 EXHIBIT 43.

BURNETT L. ELMAN,
Solicitor.

27 Lincoln's Inn Fields,
London, W. C. 2.
20th August, 1930.

Dear Sir,

Fishers Foils Ltd.—Ref CJS/B/FF94.

I am in receipt of your respective communications of the 18th instant and of yesterday's date, and as I informed Mr. C. J. Sharles today when I called upon you, I am surprised at your making the enquiry that you are, and can only say that the information for which you ask is no concern of the Company's or of the shareholders.

Suffice it to say that insofar as the Shares are concerned, I today handed to Mr. C. J. Sharles the title to 776680 (Seven hundred and seventy six thousand six hundred and eighty) shares in the Company, to enable you to deal with the number you have so far disposed of.

Please let me have a remittance by return for the shares so far sold.

Yours faithfully,
(Sgd) BURNETT L. ELMAN.

The Secretary,
Fisher Foils Ltd.,
845/850, Salisbury House,
London Wall, E. C. 2.

270 EXHIBIT 51.

Copy.

11th August, 30.

H. WISE, Esq.,
2, Broad Street Buildings,
E. C. 2.

Dear Sir,

We hereby sell to you the rights to an allotment of 1,176,000 shares of 10/- each fully paid in the Rhodesia Border Mining Corporation Limited for the sum of Thirty three thousand pounds (£33,000) delivery of the said shares can

be effected by nomination letter which we undertake to forward to the said Company who will allot these shares to you.

The receipt of the above mentioned sum by cheque of this date is duly acknowledged.

Yours faithfully,

T. W. Webb & Co., Ltd.

Director.

P. S. Formal Contract is enclosed herewith.

271 Exhibit 51 contd.

Contract Note. No.

T. W. WEBB & CO. LTD.

5, Moorgate Buildings, E. C. 2.

11th Aug. 1930.

Sold: Rights to an Allotment of 1176000 shares of Rhodesia Border Mining Corpn. Ld. fully paid.

Amount:	£33,000.—.—
Contract Stamp paid.	1.14.—
Total Amount:	£33,000.—.—

For Settlement—Cash a/c.

Name: H. Wise.

Address: 2, Broad Street Buildings, E. C.

272 Exhibit 52.

PRETORIA MINING ESTATES COMPANY LIMITED.

Inland Telegrams: "Enterprise, Guernsey".

5, Court Row, Guernsey, 21st August, 1930.

Messrs T. W. Webb & Co. Ltd.,
5, Moorgate Buildings,
E. C. 2.

Dear Sirs,

Re The Rhodesia Border Mining Corpn. Ltd.

With reference to the Contract for the sale of the shares in above-named Company for the sum of £33,000 we hereby instruct you to deduct the sum of £4,000 from this amount

and to sign the Commission letter addressed to Mr. Burnett L. Elman, paying to him the said sum of £4,000.

Yours faithfully,
(Sgd) F. NEWBERRY.
Director.

273 EXHIBIT 53.

5, Moorgate Buildings
E. C. 2.
August 21st 1930.

Dear Sir,

In consideration of your completing the deal relating to Rhodesia Border Mining Corporation Limited today we undertake to deliver the shares referred to in our contract of the 11th inst. and the letter of the same date written by us to you as and when called upon so to do.

Yours faithfully,
For and on behalf of T. W. Webb & Co. Ltd.
R. H. BRETT.
Director.

H. WISE, Esq.

274 EXHIBIT 54.

Copy.

21st August, 1930.

BURNETT L. ELMAN, Esq.,
Solicitor,
27, Lincoln's Inn Fields,
W. C. 2.

Dear Sir,

According to the instructions received from our principals, the Pretoria Mining Estates Co. Ltd., in consideration of services rendered by you and your Associates to them & to us in connection with the Rhodesia Border Mining Corporation Limited, we hereby undertake and agree to pay you the sum of Four thousand pounds ($4,000) in full discharge by way remuneration for such services.

Yours faithfully,
T. W. WEBB & Co. LTD.
Director.

275 EXHIBIT 55.

BURNETT L. ELMAN,
Solicitor.

27, Lincoln's Inn Fields,
London, W. C. 2.

Aug. 21st, 1930.

Received from Messrs. T. W. Webb & Co. Ltd. the sum of Four thousand pounds in settlement of the amount due as per your letter of even date in relation to Rhodesia Border Mining Corporation Limited.

(Sgd) BURNETT L. ELMAN.
(Stamp 2d)

276 EXHIBIT 57.

7563

No. G 19802. 9th July, 1930.

Barclays Bank (Dominion, Colonial and Overseas)
with which is amalgamated
THE NATIONAL BANK OF SOUTH AFRICA LIMITED,
Circus Place, London Wall, London, E.C. 2.

(Stamp 2d)

Pay A. Klein, Esq. or Order
Eight hundred and thirty pounds.
For and on behalf of Vulcan Copper Mines Limited.
(Sgd) A. H. } Directors
(Sgd) ALFRED H. BONHAM }

£830.0.0

(Sgd) A. J. SMITH,
Secretary.

Crossed: & Co.
A c Payee.

Stamped: Brown, Shipley & Co.,
Founders Court, E. C. 2.
Paid
10 Jul: 1930.

Endorsed: A. Klein.

277 EXHIBIT 59.

ALEX. FRASER.
Accountant, Auditor, Broker,
Estate and Commisison Agent. Bulawayo,
Rhodesia.

Agent for
Atlas Assurance Co. Ltd. 18th November, 1930.
Secretary,
Vulcan Copper Mines Ltd.,
25, Victoria Street,
London, S. W. 1.

Dear Sir,

I enclose herewith copy of cable sent you to Nuttalite (Mr. Newberry's address) and I have to advise that the Registrar is somewhat particular on the Company's act being carried out and he was desirous to know whether the Statutory Meeting which was to be held some months ago was held and I thought it as well to cable you.

I would call your attention to the matter of the list of allottment as under the new amendment of the act passed the last session of the Government, it is necessary to file a copy of the list of all allottments cash and properties within a month of the allottment of any shares.

I shall therefore be glad if you will send forward the list of allottment of your company at the earliest possible date and also advices in regard to the Statutory meeting.

I have been notified that an application for the winding up of the Company has been made and of course matters is now at a standstill and an embargo has been placed on the Company's funds at the bank who have been notified by London Wall Branch.

I have had several applications for information from shareholders in England and here in regard to the Company and I have no information to give.

I think this is a very bad state of affairs and I should be put into a position and receive reports so that the shareholders should get the gist of the same.

It is rather awkward that a Director knows nothing
278 about the Company it represents and probably it might be as well to retire from the same.

Yours faithfully,

(Sgd) ALEX FRASER.

279 EXHIBIT 60.

C/16
R3/L 01656. London, July 3rd 1930.

MIDLAND BANK LIMITED
formerly

(Stamp 2d)

London Joint City & Midland Bank Limited,
Gray's Inn Branch, 49 High Holborn, W. C. 1.

Pay the Vulcan Copper Mines Ltd. or Order
Thirty three thousand pounds.
£33,000.0.0. For and on behalf of
Broad Street Press Ltd.
(Sgd) A. PARIS
(Sgd) ALBERT S. J. OSBORN.
Directors.

Crossed: & Co.

Stamped: Barclays Bank (Dominion, Colonial and Overseas).
National Bank of South Africa Branch.
Paid
7 Jul. 1930.

Endorsed: Vulcan Copper Mines Limited.
(Sgd) ALFRED H. BONNARD,
Director.

280 EXHIBIT 61.

THE PERMANENT INVESTMENTS LIMITED.
5, Court Row,
Guernsey.
1st July, 1930.

The Vulcan Copper Mines Ltd.,
25, Victoria Street,
London, S. W. 1.

Dear Sirs,

We hereby nominate the Broad Street Press Limited of 2, Broad Street Buildings, E. C., to receive an allotment of 1,000,000 shares of 10/- each fully paid payable to us under the agreement dated 27th June 1930.

Yours faithfully,
For & on behalf of The Permanent Investments Ltd.
(Sgd) IRA C. OZANNE,
Director.
(Stamp 6d).

281 EXHIBIT 62.

C/16.
R3/ L. 01616. London, June 30th 1930.

MIDLAND BANK LIMITED
formerly
London Joint City & Midland Bank Limited,
Gray's Inn Branch, 49, High Holborn, W. C. 1.

(Stamp 2d)

Pay Permanent Investments Ltd. .....or Order
Thirty Three Thousand pounds sterling.
£33,000.— For and on behalf of Broad Street Press Ltd.
(Sgd) A. PARIS.
(Sgd) ALBERT S. J. OSBORN
Directors.

Crossed: & Co.

Stamped: Barclays Bank Limited,
Basinghall Street,
PAID,
2 JUL. 1930.

Endorsed: For & on behalf of
Permanent Investments Limited,
(Sgd) F. Newbery,
Director.

282 EXHIBIT 65.

BURNETT L. ELMAN.
Solicitor.

Telephones: Holborn (6555, (6556, (5050

27 Lincolns Inn Fields,
London, W. C. 2.
7th October 1930.

Dear Sirs,

As arranged with Mr. Guest, I enclose herewith Bill of Costs shewing the sum of £250, due to me, and shall be glad to receive a remittance to close these matters.

Yours faithfully,
BURNETT L. ELMAN.

Messrs. Broad Street Press Ltd.,
2 Broad Street Buildings,
E. C. 2.

283 EXHIBIT 65 Contd.

BROAD STREET PRESS Ltd.,
2 Broad Street Buildings,
E. C. 2.

—to—

BURNETT L. ELMAN,
27 Lincoln's Inn Fields, W. C. 2.
Solicitor.

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re TRUTH PUBLISHING CO. Ltd.,
ST. CLEMENTS PRESS Ltd.,
and COLSEY.

Professional charges in connection with the action brought by you against the above claiming damages for libels contained in certain issues of Truth including numerous attendances upon you and at Court and instructions for and retaining Sir Patrick Hastings, K. C. Mr. Norman Birkett, K. C. and Mr. W. A. Jowitt K. C. various Conferences with Counsel as to repeated attempts being made in the issue of Truth and instructions for and delivery of Statement of Claim and ultimately you decided not to proceed with the action including all Court fees, Counsels fees and other disbursements.

A. S. J. Osborn v. *Truth Publishing Co. Ltd. St. Clements Press Ltd. and Colsey.*

Professional charges in connection with the action brought by you against the above claiming damages for libels contained in certain issues of Truth including numerous attendances upon you and at Court and instructions for and retaining Sir Patrick Hastings, K. C. Mr. Norman Birkett, K. C. Mr. W. A. Jowitt K. C. various Conferences with Counsel as to repeated attempts being made in the issue of Truth and instructions for and delivery of Statement of Claim and ultimately you decided not to proceed with the action including all Court fees, Counsels fees, and other disbursements.

Re *The Publications & Investment Trust Ltd. Macaire Mould & Co. Ltd. and O. H. Merrick.*

Professional charges in connection with this action in respect of the publications of the libels in the Financial Outlook, including numerous attendances upon you and at Court and instituting proceedings and instructions to and Conferences with Counsel when ultimately you decided not to proceed further with the matter, including all Court fees, Counsels fees and other disbursements.

Broad Street Press Ltd., v. *General Stock Exchange Ltd.*,

Professional charges in connection with the action brought against the above for damages for libel contained in
284 certain circulars issued by General Stock Exchange Ltd., including numerous attendances upon you and at Court and instructions to and Conferences with Counsel, when you decided not to proceed further with the matter, including all Court fees, Counsels fees, and other disbursements.

The whole of the above agreed at £250. 0. 0

Dated 7th October 1930.

sd: BURNETT L. ELMAN.

With Compliments.

285 EXHIBIT 66.

BURNETT L. ELMAN.
Solicitor.

27 Lincoln's Inn Fields,
London, W. C. 2.
3rd December 1930.

Sir,

re Broad Street Press Ltd.

In reply to your letter of the 25th ult. I have turned up the papers but do not find that I have had any correspondence with the Company.

As to your enquiry for a short account of how it was the Company came to be formed, all I can tell you is that I was instructed by Mr. Walker to prepare all necessary papers for the formation of a Company having a nominal capital of £5,000 divided into 5,000 shares of £1 each the main object of the Company being to carry on the business of a Financial Newspaper, an agreed fee of £100 was to be paid to me for

costs to include all disbursements and the Company was duly registered, two clerks in this office signing the Memorandum and Articles as is most frequently done on a Company being formed. As it was not known at what address the Company would carry on, Mr. Walker asked me to allow the registered office to be at this address. I was also asked to allow my clerk to be Secretary *pro tem* and as it practically involved no work, I saw no objection and agreed.

As to the Board Meetings, I understand from my clerk, Mr. Osborn, that there were about six meetings in all, but you can check this no doubt from the Minute Book. I can of my own knowledge say that Mr. Walker was present at the first Meeting at which the usual formalities were dealt with. Mr. Walker was also present, I understand, at
286 most of the other Board Meetings. You are quite right in saying that Mr. Walker was responsible for the promotion of the Company.

Yours faithfully,

(Sd) BURNETT L. ELMAN.

The Official Receiver in Companies Liquidation,
(Broad Street Press Ltd.),
33 Carey Street, Lincoln's Inn,
W. C. 2.

287 EXHIBIT 67.

BURNETT L. ELMAN,
Solicitor.

27 Lincoln's Inn Fields,
London, W. C. 2.

5th December 1930.

Sir,

re Broad Street Press Limited.

In reply to your letter of yesterday's date, the sum of £100 paid to me for the costs of incorporation of the Company was actually paid on the 4th September 1928 by Mr. A. J. Klein on behalf of Mr. Walker.

As to your remarks that considerable payments were made out on the Company's behalf before the Company's Bank Account was opened, I have no knowledge of this.

Yours faithfully,

BURNETT L. ELMAN.

The Official Receiver in Companies Liquidation,
(Broad Street Press Ltd)
33 Carey Street, Lincoln's Inn,
W. C. 2.

288 EXHIBIT 68.

No. R/W 191986 London, E. C. 2. 26th Sept. 1928.
232, 234, 236 & 238 Bishopsgate

BARCLAYS BANK LIMITED,
232-8 Bishopsgate, E. C. 2.

(2d Stamp)

Pay J. Walker Esq., ... or Order
Five Hundred & Eighteen pounds 10/11.
£518.10.11. Broad Street Press Ltd.
A. PARIS
ALBERT S. J. OSBORN } Directors

Crossed: & Co.

Rubber stamps: Barclays Bank Limited
T8 City 3 Office T8
170 Fenchurch Street, E. C. 3.

PAID
Barclays Bank Limtd.,
28 Sep. 1928.

Endorsed: J. Walker.

289 EXHIBIT 68 Contd.

No. R/W. 191979. London, E. C. 2. 26th Sept. 1928.
232, 234, 236 & 238 Bishopsgate

BARCLAY'S BANK LIMITED,
232-8 Bishopsgate, E. C. 2.

(2d Stamp)

Pay J. Walker Esq., ... or Order
Nine hundred & fifty seven pounds 8/7.
£957.8.7

Broad Street Press Ltd.
A. PARIS
ALBERT S. J. OSBORN
Directors.

Crossed: & Co.

Rubber stamps: Barclays Bank Limited
T8 City 3 Office T8
170 Fenchurch Street, E. C. 3.

PAID
Barclays Bank Limtd.,
28 Sep. 1928.

Endorsed: J. Walker.

290 EXHIBIT 68 Contd.

No. R/W. 191990. London, E. C. 2. 28th Sept. 1928.
232, 234, 236 & 238 Bishopsgate

BARCLAY'S BANK LIMITED,
232-8 Bishopsgate, E. C. 2.

(2d Stamp)

Pay J. Walker Esq., ... or Order
Twelve hundred & fifty pounds sterling.
£1250. 0. 0

Broad Street Press Ltd.,
A. PARIS
ALBERT S. J. OSBORN } Directors

Crossed: & Co.

Rubber stamps: Barclays Bank Limited
T8 City 3 Office T8
170 Fenchurch Street, E. C. 3.

PAID
Barclays Bank Limtd.,
28 Sep. 1928.

Endorsed: J. Walker.

291 Exhibit 68 Contd.

No. R W. 192009. London E. C. 2. 9th Oct. 1928.
232, 234, 236 & 238 Bishopsgate

BARCLAY'S BANK LIMITED,
232 & Bishopsgate, E. C. 2.

(2d Stamp)

Pay J. Walker Esq., or Order
Five hundred & twenty pounds sterling.
£520. 0.0. Broad Street Press Ltd.
A. Paris
Arnent S. J. Osmonn } Directors

Crossed: & Co.

Rubber stamps: Barclays Bank Limited
T8 City 3 Office T8
170 Fenchurch Street, E. C. 3.

PAID
Barclays Bank Limtd.,
12 Oct. 1928.

Endorsed: J. Walker.

292 Exhibit 68 Contd.

No. R/W. 192010. London, E. C. 2. 9th Oct. 1928.
232, 234, 236 & 238 Bishopsgate

BARCLAY'S BANK LIMITED,
232-8 Bishopsgate, E. C. 2.

(2d Stamp)

Pay J. Walker Esq., or Order
Twenty five pounds sterling.
£25. 0. 0. Broad Street Press Ltd.,
A. Paris
Albert S. J. Osborn } Directors

Crossed: & Co.

Rubber stamps: Barclays Bank Limited
T8 City 3 Office T8
170 Fenchurch Street, E. C. 3.

PAID
Barclays Bank Limtd.,
12 Oct. 1928.

Endorsed: J. Walker.

293 EXHIBIT 68 Contd.

No. R W 192019. London 12th Oct. 1928.

232, 234, 236 & 238 Bishopsgate

BARCLAY'S BANK LIMITED,
232-8 Bishopsgate, E. C. 2.

(2d Stamp)

Pay Cash ..... or Order

One hundred & twenty five pounds.

£125. 0. 0. Broad Street Press Ltd.:,
A. PARIS.
ALBERT S. J. OSBORN } Directors

Crossed: & Co.

Rubber stamps: Barclays Bank Limited
T8 City 4 Office T8
170 Fenchurch Street, E. C. 3.

PAID
Barclays Bank Limtd.,
12 Oct. 1928.

Endorsed: J. Walker.

294 EXHIBIT 69.

No. R/W. 192038. London, E. C. 2. 26th Oct. 1928.
232, 234, 236 & 238 Bishopsgate

BARCLAY'S BANK LIMITED,
232-8 Bishopsgate, E. C. 2.

(2d Stamp)

Pay Cash ..... or Order
One hundred & Fifty four pounds 2/11.
£154.2.11. Broad Street Press Ltd.,
A. PARIS
ALBERT S. J. OSBORN } Directors

Crossed: & Co.

Rubber stamps: Barclays Bank Limited
T8 City 4 Office T8
170 Fenchurch Street, E. C. 3.

PAID
Barclays Bank Limtd.,
30 Oct. 1928.

293 Exhibit 69 Contd.

No. R W 192039 London, E. C. 2. 26th Oct. 1928.
232, 234, 236 & 238 Bishopsgate

BARCLAY'S BANK LIMITED,
232 8 Bishopsgate, E. C. 2.

(2d Stamp)

Pay Cash or Order
One hundred & forty-three pounds 1 6.
£143. 1. 6. Broad Street Press Ltd.
A. PARIS
ALBERT S. J. OSBORN } Directors

Crossed: & Co.

Rubber stamps: Barclays Bank Limited
T8 City 4 Office T8
170 Fenchurch Street, E. C. 3.
PAID
Barclays Bank Limtd.,
30 Oct. 1928.

296 EXHIBIT 70.

G. 14449 23.7.1930.

MIDLAND BANK LIMITED
Grays Inn Branch, 49 High Holborn, W. C. 1.

(Stamp 2d.)

Pay H. J. Spellen or Order
Six Thousand pounds.
£6000. Brond Street Press Ltd.
A. PARIS
ALBERT S. J. OSBORN } Directors.

Crossed: & Co.

Rubber stamps: National Provincial Bank Limited
30 Cheapside,
London, E. C. 2.
PAID
24 Jul 1930.

Endorsed: H. J. Spellen.

297 EXHIBIT 76.

30 July 1930.

Received £50,000 War 5% Bonds for safe custody.
pp. AUGUSTUS YOUNG
W. J. KING.

Received £5,000 War 5% in Bonds of £1,000 each to be exchanged for one Bond of £5,000.
pp. AUGUSTUS YOUNG
W. J. KING.

Bonds received back for £5000
H. J. SPELLEN.

298 EXHIBIT 77.

AUGUSTUS YOUNG
Stock & Share Broker

Telephone No:
Metropolitan 8536 (2 lines)
Exch. Tel. 649
Telegraphic address:
Statically, Stock, London

Warnford Court,
Throgmorton Street,
and Stock Exchange
London E, S. 2.

24 Oct. 1930

H. J. Spellen Esq.,

Dear Sir,

The Gilt Edged Stock open is as follows:

£ 500	Conversion	3½
£1596	do	4½%
£ 200	N.S. Wales	5 %
£2274.7.11	Conversion	5 %

There are some stops at the Bank on some of it.

90 Midland Bank £2 shares 55 do. £1 shares are stopped at the Midland Bank & we have bought them back.

£300 Cable A is stopped at that Company's office. We have bought that also to close & I herewith enclose contracts.

The following have been bought in: 60 Unilever
50 Attock Oil
£754 B.A.G.T. pref.
50 J. Hetherington pf.

A very large amount of registered stock remains undelivered.

Yours faithfully,

pp. AUGUSTUS YOUNG,
W. J. KING

299 EXHIBIT 84

25th August 1930.

Received from Mr. H. Guest Four 5 per cent War Bonds of £5,000 each (£20,000 in all) for safe custody.

pp. AUGUSTUS YOUNG
W. J. KING

7th August 1930.

Received from Mr. H. Guest Bonds for £15,000 War 5 per cent Loan 1929-47, for safe custody.

for AUGUSTUS YOUNG
W. J. KING

300 EXHIBIT 85.

Schedule 1.

BROAD STREET PRESS LIMITED

Paid Cheques—H. Geen.

Date of cheque	Date paid	Clearing Bank	Company's Bank	Amount £	s	d
14 March	14 March	Barclays, 22 Wood St. E. C. 2.	Barclays 232 Bishopsgate.	6000.	0.	0.
22 "	25 "	Westr. (Baker St Br.) 183 Baker St W. 1. (remitted thro' Lombard Street)	do	706.	0.	0.
22 "	25 "	do do	do	1000.	0.	0.
				7706.	0.	0.
4 April	4 April	Barclays, Wood St E. C. 2	Midland Bank Grays Inn	2000.	0.	0.
7 "	9 "	do do	49 High Holborn do	603.	0.	4.
				£10309.	0.	0.
14 May		Garfield	Midland	1961.	0.	0.
" "		do	"	1772.	15.	0.
				3733.	15.	0.
				£14042.	15.	0.

301 EXHIBIT 88.

SCHEDULE 2.

BROAD STREET PRESS LIMITED
In Liquidation

Paid Cheques to A. J. Klein

	Payee	Date of Cheque	Date of Payment	Clearing Bank	Company's Bank	£	s	d
		1928	1928					
1	Cash (Creddr Arthur Klein)	2nd Nov.	4th Nov.	West Lothbury c/o Brown Shipley & Co.	Barclays	120.	0.	0.
		1930						
2	Cash	20 Mar.	26th Mar.	Brown Shipley & Co	"	1000.	0.	0.
3	"	26 "	26th "	do	"	2000.	0.	0.
4	"	21 "	21st "	do	"	4600.	0.	0.
5	"	2 Apr.	2nd Apr.	do		6133.	0.	0.
6	"	4 "	5th "	West Lothbury c/o Brown Shipley & Co.	Midland 49 High Holborn.	4297.	0.	0.
8		9 "	9th "	Brown Shipley & Co.	do	3000.	0.	0.
9	"	11 "	11th "	Brown Shipley & Co. Founders Court E. C. 2	do	2500.	0.	0.
10	"	11 "	12th "	do	do	4962.	0.	0.
11	"	11.	12th "	do	do	4400.	0.	0.
12	"	24 "	25th "	do	do	775.	0.	0.
13	"	1 May	5th May	Westminster Bank c/o Brown Shipley & Co.	do	1891.	0.	0.
14	"	27 "	29th "	Brown Shipley & Co.	do	7863.	0.	0.
15	A.J.K.	26 June	26th June	do	do	10000.	0.	0.

302 EXHIBIT 88—Cont'd.

Payee	Date of Cheque	Date of Payment.	Clearing Bank	Company's Bank.	£	s	d
	1930						
16. Cash	30 June	30 June	Brown Shipley & Co.	Midland 49 High Holborn	5000.	0.	0.
17. A.J.K.	2 July	2 July	do	do	5000.	0.	0.
18. Cash	3 July	3 July	do	do	5000.	0.	0.
19. "	10 "	10 "	do	do	2500.	0.	0.
20. "	14 "	15 "	do	do	2500.	0.	0.
21. A.J.K.	16 "	17 "	do	do	2500.	0.	0.
22. "	18 "	19 "	do	do	566.	15.	0.
23. Cash	18 "	19 "	do	do	1000.	0.	0.
24. "	15 Aug.	15 Aug.	do	do	2000.	0.	0.
25. "	18 "	18 "	do	do	1500.	0.	0.
26. "	22 "	22 "	do	do	350.	0.	0.
					81457.	15.	0.
			Endorsed S. Garfield Westminster Bank A/c Brown Shipley & Co.				
S. Garfield	23 May	20 June		1901. 10. 3.			
"	25 July	29 July	do	600. 0. 0.			
"	26 July	29 July	do	800. 0. 0.			
M. Rappaport	24 June	25 June	Endorsed M. Rappaport Westminster Bank Ltd. A/c Brown Shipley & Co.	2200. 0. 0.			
				5501. 10. 3.	5501.	10.	3.
					£86,959.	5.	3.

303 EXHIBIT 90.

Warnford Court.
6 June 1930.

J. Klein Esq:

I am holding on your account for safe custody 4500 Radio Corporation of America Common Shares.

AUGUSTUS YOUNG.

304. Exhibit 98.

Schedule No. 3.

BROAD STREET PRESS LIMITED.

Receipts for 1930.

1930	Barclays Bank Account. £ s d	Midland Bank Account. £ s d
January 31st	2826.15. 7	
February 28th	903. 8. 0	
March 31st	79,538. 0. 9	22,814. 5. 0
April 30th	307. 6. 9	71,137. 0. 9
May 31st	1474. 9. 4	112,437. 3. 6
June 30th	16,099.12. 1	179,350.11. 3
July 31st	57,222.15. 3	310,804. 3.10
August 31st	131,763. 2. 6	107,793. 6. 4
Sept. 30th	355,558. 1. 0	
October 25th	173,536.14. 1	
	£818,590. 5. 4	£804,336.10. 8

£1,622,926.16. 0

Less Jan. & Feb. 3,190. 3. 7

1,619,736.12. 5

Payments out from March—Oct;

To H. Wise 13.6.30—27.10.30—£709,180.

" A. J. Klein.

305 EXHIBIT 102.

Private and Confidential.

The particulars below are given to comply with the Companies Act of 1929.

Broad Street Press Ltd., (Registered Office, 27 Lincoln's Inn Fields, London, W. C.) offer for sale as principals 200,000 shares at 5/- fully paid, in Asbestos and Holdings Trust Ltd.

The Authorised Capital of the Trust is £250,000 in one million shares of 5/- each fully paid of which number 646,007 shares are issued.

Directors

Walter Blount,
6, Orleans Road,
Hornsey Rise, N. 19.

Ernest Scott Robinson
25, Tavistock Buildings,
Russell Square, W. C. 1.

Bernard Graham Derry,
Cuthbert Buildings,
P. O. Box 6,
Salisbury,
Southern Rhodesia.

Arthur George Chatwin,
Cuthbert Buildings,
P. O. Box 6,
Salisbury,
Southern Rhodesia.

Secretary
Sidney Alfred Lancaster,
6, Broad Street Place,
London, E. C. 2.

Asbestos and Holdings Trust Ltd. was registered on the 28th February 1929 at Salisbury, Southern Rhodesia. The properties owned by the Trust consist of 15 Blocks of Claims at Shabani in the district of Belingwe, Southern Rhodesia, (contiguous to the Chabani Mine area owned by the Rhodesian and General Asbestos Corporation Ltd.) 4 Blocks of Claims in the district of Mashaba, Southern Rhodesia (situated approximately mid-way between the Baths and Kings Mines owned by the Rhodesian and General Asbestos Corporation Ltd.) and an option to acquire 3 Blocks of Claims also situated in the district of Mashaba adjoining the areas of the above named Kings Mine.

The asbestos districts of Shabani and Mashada have already been extensively proved by the mining operations of the Rhodesian & General Asbestos Corporation Ltd.

This latter Company, which has had a career of unexampled prosperity, was recently absorbed by Turner & Newall Ltd. which latter concern has for many years made huge profits and paid very big dividends. Shareholders in
306 both the Rhodesian & General Asbestos Corporation and Turner & Newall have not only been in the receipt of a large income return on their shares but the latter have also shown considerable capital appreciation during the past few years.

No dividend has yet been paid on the shares now offered for sale.

There are no Debentures.

Application to deal in the shares has not yet been made to any Stock Exchange and the shares, therefore, are not officially quoted.

Broad Street Press Ltd.,
A. S. J. Osborn,
Director.

307 EXHIBIT 103.

Private & Confidential.

The Particulars below are given to comply with the Companies Act of 1898.

The Rhodesia Border Mining Corporation Limited

This Company was registered on 22nd July 1930 at Bulawayo, Southern Rhodesia, with a Capital of £750,000 in 1,500,000 shares of 10/- each of which there have been allotted 1,176,007 Shares and are fully paid.

The properties of the Company consist of:—

RHODESIA COPPER AREAS No. 1 situated in the Lomagundi district of Rhodesia on the well known copper belt traversing this part of the Country, upon which belt extensive prospecting and development work is taking place. The claims, representing 150 acres, have been well opened

up by shafts and levels with heavily mineralised ore chutes occurring on the lode whilst the general width of the lode is about four feet, it widens out in places up to eight feet.

As shown by the development work carried out the average values of the copper contents of the lode may be taken at 7% to 8% per ton of ore, but in places, phenominally rich copper ore is met with.

NO. 2 OPTION UPON 8 BLOCKS OF CLAIMS in the Makoni district near the Rhodesia Border about 10 miles from the railway these blocks having about 3 miles in length on the lode formation the mineralised contents embrace recoverable values covering gold, silver, copper and lead; the ore bodies may be assumed to take the form of lenticular mineralised masses. The mine has been well opened up by means of shafts winses and adit levels driver into the mountain, one of which is 700 feet in length across the formation exposing the mineralised zones. There are two lodes, the North and South, high values have been met with in these developments.

SOUTH WEST AFRICA COPPER AREAS. These claims are situated in the Otjizonjati district adjacent to Ovetoto and about 25 miles East of Okahandga. The 308 area consists of 140 acres the Copper lode formation extending throughout the length of the property, the payability of its mineral deposits has been proved by the development work put in. The main vertical shaft being sunk to a similar depth with level driven on the lode which averages about 26 inches in width. Samples taken from these workings varied from 3% to 17% copper.

The Shares are not yet settled in on the Stock Exchange.

The Directors of the Company are:—

Jesse Hill, 15 Manor Road Sidcup.

Harry Brignell, Shirley, Headstone Lane North Harrow.

Alexander Fraser, Bulawayo, Rhodesia, South Africa.

Sidney Aston Redrup, Bulawayo, Rhodesia, South Africa.

309 EXHIBIT 104.

Private & Confidential.

The Particulars below are given to comply with the Companies Act of 1929.

The Vulcan Copper Mines Limited.

The authorised Capital of the Company is £600,000 in 1,200,000 shares of 10/- each of which number 1,000,407 are issued and fully paid up.

Directors.

Alfred Henry Bonnard, 59 Torrington Square London W. C.
Alfred Percy Sprange, 122 Lyttleton Road N. W. 11.
Alexander Fraser, Bulawayo Rhodesia, South Africa.
Sidney Aston Redrup, Bulawayo, Rhodesia, South Africa.

Secretary.

A. F. Smith, 25 Victoria Street, S. W. 1.

The Vulcan Copper Mines Limited was registered in April 1930 at Bulawayo, Southern Rhodesia. The properties of the Company consist of:—

RHODESIA, BLOCK A. This Copper Mine is situated in the Lomagundi district of Rhodesia and is presumably on the famous Copper belt running through the Country from Umtali through Katanga to the Congo border. This mine has been well opened up by development over a distance of 600 to 700 feet by means of shafts and levels with a width of over four (4) feet with two further Copper lodes of about 4 feet in width running parallel. 3000 tons recently crushed gave about 12% of Copper per ton of Ore.

There are approximately 10,000 tons of ore at grass containing about 572 tons of Copper and 1100 Ozs. of gold ready to crush.

SOUTH WEST AFRICA, BLOCK B. This Copper Mine is situated in the Rehoboth district about 20 Miles from Windhoek and the railway. 6 veins or lodes have been lo-
310 cated and proved to be copper-bearing for a distance of two miles in length and are from 3 feet 6 inches to upwards of ten feet in width: a large amount of development and prospecting work has been put in clearly establishing the continuity of the veins. Shipments of high grade ore taken from the shafts and levels have been made to Germany and have yielded grades as high as 30% of Copper and 10 dwts of Gold per ton of ore.

The present development workings are well placed for the resumption of early shipments of ore. Shafts have been sunk and levels put out on the lodes.

The great length of the mineralised copper belt is indicative of depth to the mines.

These veins occur geologically under the same conditions as those obtained at Tsumeb known as the Otavi Mines which have been consistently worked and paid dividends for many years past.

SOUTH WEST AFRICA, BLOCK C. This group of Copper Claims is situated on the same belt as the above Block B. The lode so far opened up has good width and values, showing Copper through the entire length of the property. The pay ore occurs in lenses and in the shafts and cuttings is gaining in width as depth is attained. Having about one mile of outcrop the width of the property is about 2000
311 feet. No dividend has yet been paid on the shares now offered for sale.

There are no Debentures.

Application to deal in the shares has not yet been made to any Stock Exchange and the shares, therefore, are not officially quoted.

312 EXHIBIT 105.

Telephones: Bishopsgate 5668-5669.

FINANCE
and
Stock Exchange Observer
A weekly Guide for Investors and Speculators

Telegraphic Address: Brocitnews Ave, London.

Edited by Norman D. Spencer
Proprietors:
Broad Street Press Limited

Directors:
A. S. J. Osborn
A. Paris

2 Broad Street Buildings,
London, E. C. 2.
March 10th 1930.

Mrs. John M. Maxwell,
Gilchriston,
Humbie, Edinburgh.

Dear Sir,

Enclosed please find herewith contract for shares as per your reservation and also full particulars regarding the Trust.

From these particulars you will observe that the properties owned by the Trust are situated in a district in southern Rhodesia adjacent to those owned by the Rhodesian & General Asbestos Corporation Ltd. and the district has already been proved to be enormously rich in the production of asbestos by the operations of the Rhodesian & General, which concern has had a career of unparalleled prosperity for its shareholders. So successful has this Company been that it was recently absorbed by the equally highly successful asbestos firm of Turner & Newall Ltd. There is an enormous future for asbestos and having regard to the situation of the properties owned by Asbestos and Holding Trust a highly prosperous and profitable career is a certainty.

I may mention that "Finance" was the first and only financial journal in the United Kingdom to advise a purchase of Rhodesian Congo Borders when these shares 313 could have been bought at £2, and as you know, they have since been £15.10.0d and I shall certainly keep you well posted regarding the movements in the Shares you have purchased.

As this transaction is for cash and no commission or expenses are charged, please let us have your cheque by return of post.

Yours faithfully,

NORMAN D. SPENCER,
Editor.

314 EXHIBIT 106.

Telegraphic address: Telephones Bishopsgate
Brocitnews, Ave. London. 5668—5669

FINANCE AND STOCK EXCHANGE OBSERVER
A weekly guide for Investors and Speculators.
Edited by Norman D. Spencer
Proprietors: Broad Street Press Limited.

Directors:
A. S. J. Osborn,
A. Paris.
KB.

2 Broad Street Buildings,
London, E. C. 2.

W. Lenton Esq.,
7 Groveland Road, Wallasey.

5th March 1930.

Dear Sir,

You have no doubt noted the various references I have recently made in "Finance" to the subject of acquiring shares in Companies before they are officially quoted on the Stock Exchange.

As you know I am always on the look out for a share which I can recommend to you and I am now completing my investigation regarding a share which from the information I have I am sure is good for considerable capital appreciation.

I understand these shares will shortly be introduced on the London Stock Exchange at about 7/6d per share, but as you know it is not possible for you to purchase shares through your Stockbroker or your Bank until actual dealings take place in the Stock Exchange.

I am therefore making arrangements whereby I can secure these shares for you at the price of 5/- per share (par value) and I shall be glad if you will fill in the enclosed form stating the number of shares you wish me to secure for you and post same to me at once as the number available is limited.

Yours faithfully,

NORMAN D. SPENCER,
Editor.

P. S.- Please consider this letter and enclosure as private and confidential.

315 EXHIBIT 107.

FINANCE AND STOCK EXCHANGE OBSERVER.

[Same heading as Exhibit 106.]

John M. Maxwell Esq., 2 Broad Street Buildings,
Gilchriston, London, E. C. 2.
Humble, 29th March 1930
Edinburgh.

Dear Mr Maxwell,

With regard to your purchase of 600 shares in Asbestos & Holdings Trust Ltd. I may say that these shares are not available now at under 7/6d. Because of the confidence you have shewn in my judgment by purchasing them on my recommendation, I would naturally like to see you make as much profit as you possibly can by buying as large a number of the shares as you are able.

Knowing, however, that these shares would not be available at under 7/6d, I have taken the liberty of reserving for you a further 1400 shares at 6/- and I would strongly advise you to take these up, or as many as you are able, in order that you may make the maximum profit out of your holding.

I assure you that I shall personally look after your interest in these shares, and as I stated in my last letter to you, the reports from the Companies properties are so satisfactory that I should not be at all surprised to see them change hands at about 20/-.

Enclosed you will find a prepaid telegram, so please wire me on receipt of this letter that you agree with what I have done for you.

Yours faithfully,

NORMAN D. SPENCER, *Editor.*

P.S. Should it be necessary to sell any securities in order to complete the above transaction I shall be pleased to carry out the business for you.

316 EXHIBIT 110.

Stock and Share Department

FINANCE

etc. etc.

[Remainder of heading same as in Exhibit 106.]

2 Broad Street Buildings,
London, E. C. 2.

July 7th 1930.

Dear Sir or Madam,

The recent special advices given by our Editor, Mr. Norman D. Spencer, have made very big profits for those who followed them. They were Triplex Safety Glass, which Mr. Spencer advised a purchase of at 21/-, the price rising to 42/6d, and he afterwards advised a purchase of Edison Bells at 14/-, which rose to 23/-.

Advices of this kind prove that Mr Spencer has unique sources of "inside" information, and the letters given herewith from subscribers who have made profits by following his advice amply confirm this.

Mr Spencer is now advising the purchase of shares in a Company whose name is a household word all over Great Britain. The shares are quoted on the London Stock Exchange and the Company has had a wonderfully successful career, as the following figures will show:—

Dividends:—	1926-27	15 per cent
	1927-28	17½ " "
	1928-29	16½ " "

The shares are of the par value of £1 and last year were as high as 57/3d. The present price of the shares is 15/- and at this figure the dividend yield is over 16 per cent.

Mr Spencer knows that these shares will shortly stand at 30/- and if you wish to acquire any at their present price of 15/- before the information becomes public, please fill in the enclosed form and send it by return of post.

Yours faithfully,

FINANCE.

317 EXHIBIT 115.

2.

H. WISE.

Summary of Payments to H. Wise.

	Midland	Barclays	Total
13th June, 1930	48,500		48,500
14th July	10,000	15,000	25,000
24th "	30,000		30,000
25th "	20,000		20,000
5th August	50,000		50,000
19th "	75,000		75,000
26th "		70,000	70,000
3rd September		50,000	50,000
10th "		50,000	50,000
10th "		50,000	50,000
19th "		50,000	50,000
26th "		50,000	50,000
27th "		680	680
29th "	9,000		9,000
3rd October		30,000	30,000
14th "		10,000	10,000
15th "		20,000	20,000
16th "		25,000	25,000
17th "		40,000	40,000
27th "		6,000	6,000
	£242,500	£466,680	£709,180

Monthly Totals:

June	42,500
July	73,000
August	195,000
September	259,680
October	131,000
	£709,180

318 Exhibit 116.

T. W. WEBB & CO. Ltd.
Stock and Share Brokers.

Telegraphic address:
"Innolsaki, Ave. London"

5 Moorgate Buildings,
London, E. C. 2.

Telephone: London Wall 8281

21st August 1930.

Cheques crossed:
"Midland Bank"

Burnett L. Elman Esq.,
Solicitor,
27 Lincolns Inn Fields,
W. C. 2.

Dear Sir,

According to the instructions received from our principals, the Pretoria Mining Estates Co. Ltd., in consideration of services rendered by you and your Associates to and to us
them in connection with the Rhodesia Border Mining Corporation Limited, we hereby undertake and agree to pay you the sum of four thousand pounds (£4000) in full discharge by way of remuneration for such services.

Yours faithfully,

T. W. Webb & Co. Ltd.
R. H. Brett,
Director.

RHB

(6d stamp)

319 EXHIBIT 117.

P. 03751 E/8

(2d stp.)

23. 4. 1930.

MIDLAND BANK LIMITED,
Gray's Inn Branch, 49 High Holborn, W. C. 1.

Pay H. J. Spellen ..... or Order
Two hundred & forty five pds.
£245. 0. 0. Broad Street Press Ltd.
A. PARIS
ALBERT S. J. OSBORN } Directors

Crossed."

Stamped: PAID 30 Apr 1930
National Provincial Bank Limited, 30 Cheapside, London, E. C. 2.

Endorsed: H. J. Spellen

EXHIBIT 118.

(2d stp.)

P. 03788 E/8

April 24th 1930.

MIDLAND BANK LIMITED,
Gray's Inn Branch, 49 High Holborn, W. C. 1.

Pay Cash ..... or Order
Two thousand three hundred & fifty three pds 15/8.
£2353.15. 8. Broad Street Press Ltd.
ALBERT S. J. OSBORN
A. PARIS } Directors

Crossed.

Stamped: PAID 30 Apr 1930
National Provincial Bank Limited, 30 Cheapside, London, E. C. 2.

320 Exhibit 120.

(2d stp.)

No. X49390 London, Oct. 15th, 1930.

NORTH OF SCOTLAND BANK LIMITED,
3-4 Lothbury, E. C. 2.

Pay Cash ..... or Order
Six thousand pounds

p.p H. Wise
Arthur J. Klein

£6,000 - /-

Stamped: PAID 15 Oct 1930

Exhibit 121.

(2d stp.)

No. F.07641. London, Jan. 17th, 1930

NORTH OF SCOTLAND BANK LIMITED,
3-4 Lothbury, E. C. 2.

Pay cash ..... or Order
Five hundred pounds

p.p H. Wise
Arthur J. Klein

£500 - /-

Stamped: PAID 17 Jan 1930
3 Barclays Bank Limited 3
(T2) 232/8 Bishopsgate, E. C. 2. (T2)

EXHIBIT 122.

(2d stp.)

No. F.14973. London, Jan. 30th. 1930

NORTH OF SCOTLAND BANK LIMITED,
3-4 Lothbury, E. C. 2.

Pay cash ..... or Order
Five hundred pounds.

p.p H. WISE
ARTHUR J. KLEIN

£500/- /-

Stamped: PAID 30 Jan 1930
2 Barclays Bank Limited 2
(T2) 232/8 Bishopsgate, E. C. 2. (T2)

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321 EXHIBIT 123.

(24 stp.)

No. F.14987 London, Feb. 21st, 1930.

NORTH OF SCOTLAND BANK LIMITED,
3-4 Lothbury, E. C. 2.

Pay Cash ..... or Order
Seven hundred and twenty pounds.

p.p. H. WISE
ARTHUR J. KLEIN

£720/- /-

Stamped: PAID 22 Feb 1930
1 Barclays Bank Limited 1
(T2) 232/8 Bishopsgate, E. C. 2. (T2)

322 EXHIBIT 126.

(2d. stp.)

No. A.19490 London, July 7th 1930

NORTH OF SCOTLAND BANK LIMITED,
3-4 Lothbury, E. C. 2.

Pay cash ..... or Order
Fifteen thousand pounds.

H. WISE

£15,000. 0. 0.

Crossed: & Co.

Stamped: PAID 7 Jul 1930
Midland Bank Limited, Grays Inn Branch, 49
High Holborn, W. C. 1.

323 EXHIBIT 134.

PRETORIA MINING ESTATES COMPANY LIMITED.

Inland Telegrams:
"Enterprise, Guernsey."

5 Court Row,
Guernsey,
27th October 1930

The Directors of the
Rhodesia Border Mining Corporation Ltd.
80a, Coleman Street,
E. C. 2.

Dear Sirs,

It is agreed by us that the date mentioned of 31st October for your Corporation to complete the Agreement of 6th August last, is hereby extended for a further two months or for such further time necessary as may be mutually agreed upon in order that the various plans and documents may be verified and the transfer of property affected. For this purpose we have some time since caused the necessary powers of attorney to be forwarded to Bulawayo to effect such transfer.

Yours faithfully,

IRAC OZANNE
Director.

324 EXHIBIT 135.

THE RHODESIA BORDER MINING CORPORATION, LIMITED.

(Registered in Southern Rhodesia)

Telephone No:
Metropolitan 6506.

80A, Coleman Street,
London, E. C. 2.

Directors:
J. Hill
H. Brignoll
A. Fraser
S. A. Redrup.

30th October 1930

The Directors of the
Pretoria Mining Estates Company Limited,
5 Court Row,
Guernsey.

Dear Sirs,

We agree to your letter of 27th instant respecting the extension of time for a period of two months from the end of this month and any extension thereafter as set out in your letter, for the completion of the Agreement and the transfer of properties will be effected as soon as all the details and formalities have been completed for this purpose.

Yours faithfully,

By Order of the Board
London Secretary.

325 Exhibit 136.

PRETORIA MINING ESTATES COMPANY LIMITED.

Inland Telegrams: "Enterprise, Guernsey"

5 Court Row, Guernsey,

August 25th 1930.

The Rhodesia Border Mining Corporation Ltd.,
80a Coleman Street, E. C.

Dear Sirs,

We hereby nominate the Broad Street Press Limited of 2 Broad Street Buildings, E. C. to receive an allotment of 1176000 Vendor Shares of 10 each fully paid, payable to us in the capital of your Company under the Agreement dated 6th August.

Yours faithfully,

For & on behalf of Pretoria Mining Estates Co. Limited

Isaac Ozanne (6d stp.)

Director.

326 EXHIBIT 137.

THE RHODESIA BORDER MINING CORPORATION, LIMITED.

(Registered in Southern Rhodesia)

Telephone No.
Metropolitan 6506

80A, Coleman Street,
London, E. C. 2.
15th August 1930.

Directors:
J. Hill
H. Reignell
A. Fraser
S. A. Redrup

The Broad Street Press Limited,
2 Broad Street Buildings,
E. C. 2.

Dear Sirs,

We agree that if within two months you subscribe for 66,000 shares of 10/- each in the Capital of The Rhodesia Border Mining Corporation Limited at par, to pay you a commission of ten per cent and we will grant you the call of a further 257,000 shares of 10/- each at par also on a 10 per cent commission basis payable to you on the amount paid for the shares,

Yours truly,

By Order of the Board,
For & On Behalf of The Rhodesia Border Mining Corporation Limited.

London Secretary.

Exhibit 108

FINANCE
(obverse)

(Heading same as Exhibit 108)

9 Bristol Street Buildings,
London, E. C. 4.

20th August 1930

The Rhodesia Border Mining Corporation Ltd.,
300, Coleman Street,
E. C.

Dear Sirs,

We hereby irrevocably apply for 10,000 shares at par (10/- per share) subject to a commission to us of 10% on the amount of £5000 payable on the said shares for which amount we hand you cheque. Please allot part of the said shares to the parties nominated by us on the list of names attached hereto, the balance of the names will be sent on to you shortly.

Yours faithfully,

Bristol Street Press Limited

Answer N. J. Damms

Director (Initials)

328 City of London, to wit:

I, the undersigned, one of the Aldermen of the City of London and one of the Justices of the Peace acting in and for the said City, sitting at the Guildhall Justice Room, hereby certify that the typewritten matter contained in the foregoing pages numbered 1 to 3 is a true copy of the supplemental Deposition of Claude James Matthew Hawtkin sworn before me this day and that the typewritten matter contained in the foregoing pages numbered 4 to 199 is a true copy of the depositions of Percy John Brown, Donald Pritchard Nicholls, Frederick Alfred Longman, David James Hurn, William George Hawkins, Ruth Bemrose, Samuel Frederick Roberts, Robert James Trivett, Richard Hayden Guest, Hubert Stanley Holme, Ralph Massey, Quentin le Pelley, Arthur George Ashby, Frederick Francis Shorter, John Williams, Frederick Henry Manning, Reginald Harrington Brett, Cyril Thorne Newman, Joseph Wallis Hill, Albert Simon Joseph Osborne, Albert Paris, Alfred Percy Sprange, Alfred Harry Hammond, Arthur Frederick Smith, Isaac Hill, Henry Brignell and Thomas Cupey Beney severally taken and sworn to before me at the Guildhall Justice Room on the 1st day of December, 1930, 17th day of December, 1930, 2nd day of January, 1931, 16th day of January, 1931, 30th day of January, 1931, 30th day of January 1931, 12th day of February, 1931, and 18th day of February, 1931, in the presence and hearing of Herbert John Spellen, Joseph Wise, Burnett Leon Kilman and Frederick Newbery, now charged before me with conspiring together, with each other and with Harry Wise, otherwise J. Factor, otherwise Guest, otherwise J. Walker, and with the said Arthur J Klein, and with other 329 persons unknown to cheat and defraud such persons as should be induced to part with money to the said Harry Wise, otherwise J. Factor, otherwise Guest, other-

wise J. Walker, and to the said Arthur J. ..... Klein, and to other persons unknown, trading under the name of the Broad Street Press, Limited, by false representations that they were then carrying on a genuine business as Stock and Share Brokers and that the typewritten matter contained in the foregoing pages numbered 110 to 202 are true copies of certain of the Exhibits referred to in the said depositions.

Given under my hand and seal at the Guildhall Justice Room aforesaid this 24th day of February, 1931.

ISIDORE N. JACOBS.

SEAL
ALDERMAN
JUSTICE OF THE PEACE
GUILDHALL JUSTICE ROOM
CITY OF LONDON

SEAL
SECRETARY OF STATE
HOME DEPARTMENT

Stamp: 1s 0d.

SEAL
GUILDHALL JUSTICE ROOM
CITY OF LONDON

330

EMBASSY OF THE
UNITED STATES OF AMERICA

SEAL
UNITED STATES OF AMERICA

I, Charles G. Dawes, Ambassador Extraordinary and Plenipotentiary of the United States of America in London, hereby certify that the annexed papers being copies of the Depositions proposed to be used upon an application for the surrender from the United States of America of Harry Wise, alias J. Factor, alias Guest, alias J. Walker, charged with the crime of receiving certain monies knowing the same to have been obtained under circumstances which amount to misdemeanour, to wit, conspiracy to defraud, contrary to Section 33 (1) of the Larceny Act, 1916, alleged to have been committed in Great Britain, are properly and legally authenticated so as to entitle them to be received in evidence for similar purposes by the tribunals of Great Britain, as required by the Act of Congress of August 3, 1882.

CHARLES G. DAWES.

SEAL
EMBASSY OF THE
UNITED STATES OF AMERICA
LONDON

London, March 28, 1931.

331 In forwarding the annexed papers to be used in support of an application for the surrender from the United States of America of Harry Wise, otherwise J. Factor, otherwise Guest, otherwise J. Walker, charged with the crime of receiving certain monies knowing the same to have been obtained under circumstances which amount to misdemeanour, to wit, conspiracy to defraud, contrary to Section 33(1) of the Larceny Act, 1916, committed in Great Britain, I hereby certify that, to the best of my knowledge and belief, the signature "Isidore N. Jacobs" certifying to the correctness of the copies of the Depositions is the signature of Alderman Isidore Nathan Jacobs, one of His Majesty's Justices of the Peace for the City of London, having authority to issue and receive the same, and I further certify that such documents so certified by a Magistrate having jurisdiction in the place where the same were issued and taken, and authenticated by a Minister of State, and sealed with his official seal, would be received in evidence for similar purposes by the tribunals of Great Britain.

E. BLACKWELL,
Assistant Under-Secretary of State for the Home Department.

Whitehall.
27th March, 1931.

SEAL
SECRETARY OF STATE
HOME DEPARTMENT

Certified at the Foreign Office for Legalization of the Foregoing Signature, "E. BLACKWELL."

F. G. A. BUTLER,
Finance Officer of the Foreign Office.

SEAL
FOREIGN OFFICE

London.
27th March 1931.

332 CITY OF LONDON, *to wit*:

The Further Deposition of CLAUD JAMES MATTHEW GWATKIN taken on oath this 25th day of March, 1931, before me, the undersigned, one of the Aldermen of the City of London, sitting at the Guildhall Justice Room within the said City, being supplemental to the Information of the Director of Public Prosecutions and to the Depositions and Exhibits in support thereof, sworn to at the said Guildhall Justice Room on the 10th day of December 1930, upon which last mentioned date there was issued by Alderman Isidore N. Jacobs a Warrant for the arrest of Harry Wise otherwise J..... Factor, otherwise ..... Guest, otherwise J..... Walker, upon three charges of receiving certain sums of money from the Broad Street Press, Ltd., totalling in all the sum of £458,500 and knowing the same to have been obtained by means of a misdemeanour, to wit, conspiracy to defraud, contrary to Section 33 (1) of the Larceny Act, 1916.

And the said CLAUD JAMES MATTHEW GWATKIN on his oath saith as follows:—

I am a Solicitor of the Supreme Court of Judicature in England and a Professional Clerk in the Department of the Director of Public Prosecutions, London, England.

I crave leave to refer to the Deposition sworn by me on the 10th day of December 1930 before Alderman Isidore N. Jacobs at the Guildhall Justice Room, and in addition thereto to say:—

I have had charge on behalf of the Director of Public Prosecutions of the investigations of the criminal charges against the said Harry Wise otherwise J. Factor otherwise ..... Guest, otherwise J..... Walker, and also against the following persons, namely, Herbert John Spellen, Joseph Wise, Burnett Leon Elman and Frederick Newbery, who are at present charged before Alderman Isidore N. Jacobs at
333 the Guildhall Justice Room for the City of London upon a charge of conspiring together with each other and with Harry Wise otherwise J..... Factor and otherwise ..... Guest otherwise J..... Walker and with Arthur J ..... Klein and with other persons unknown to cheat and defraud such persons as should be induced to part with money

to the said Harry Wise otherwise J[illegible] Pastor otherwise Uncat otherwise J[illegible] Walker and to the said Arthur J[illegible] Klein and to other persons unknown trading under the name of the Broad Street Press Limited by false representations that they were then carrying on a genuine business as Stock and Share Brokers. Evidence with relation to the charges against the said Herbert John Spellen, Joseph Wise, Burnett Leon Blunn and Frederick Newbery has been taken before the said Alderman Isidore N. Jacobs at the Guildhall Justice Room on the 20th day of February 1931, the 5th day of March 1931, the 12th day of March 1931, and the 18th day of March 1931. I was present on each of these occasions throughout the whole of the proceedings and I attach hereto a certified copy of the Depositions of the several witnesses whose names hereafter appear, each of whom was duly sworn in my presence and each of whose deposition was signed in the presence of the Alderman, together with certified copies of certain of the Exhibits referred to in such depositions.

C. J. M. Gwatkin.

Taken and Sworn before me this 25th day of March, 1931, at the Guildhall Justice Room, in the City of London.

Isidore N. Jacobs.

Seal
Secretary of State
Home Department

Seal
Alderman
Guildhall Justice Room
Justice of the Peace
City of London

334 25th Feb 1931 Reginald Harrington Burr Recalled
On Oath saith:

This cheque of 20th June 1930 for £2030 drawn by Klein in favour of T. W. Webb & Co. Exhibit 148 was given to me by the defendant Newbery to clear for him.

I paid it into the account of T. W. Webb & Co. Ltd. at Midland Bank, Margate, and on 30th June I drew a cheque for the same amount on the account of T. W. Webb & Co. Ltd. to cash, produced Exhibit 149 and I handed that cheque to Newbery. The cheque has been paid, it appears to have been cleared through Barclays Bank, Basinghall Street.

5th May 1931 Recalled

After I had obtained the cheque for £20,000 at Elmin's office to complete the purchase of the shares in the Rhodesia Co. I obtained a banker's draft for £28,000 Exhibit 167 on the Midland Bank, Guernsey, dated 25th August, 1930.

That was on the instructions of Mr. Sidney Brignall, I gave him the draft.

The cheque on which I obtained that draft is produced Exhibit 169 on T. W. Webb & Co's account at Midland Bank, dated 25th August, 1930.

Reginald Harrington Burr.

335 25th Feb 1931 Cyril Thomas Newman Recalled
On Oath saith:

I produce a cheque dated 24th May 1930 for £751 2. 6 payable to J. Green, drawn by Broad Street Press, and endorsed "J. Green" Exhibit 150.

It appears to have been cleared by Westminster Bank Ltd. Lothbury, for the account of Brown Shipley & Co.

That cheque is not posted in the cash book of Broad Street Ex. 71. It appears unposted with a pencil mark against it "G".

I also produce a cheque dated 31st March 1930 for £4625 drawn by Broad Street Press to cash Exhibit 151. It appears to have been cleared through the National Provincial Bank Ltd. 30 Cheapside.

In the cash book Ex. 63 that cheque appears as a cash entry £4625.

I produce a cheque of 30th September 1930 drawn by Broad Street Press in favour of B. Smith for £880.10.0 cleared on 1st October through Midland Bank, Coleman Street, for the account of the North of Scotland Bank Ltd. EXHIBIT 152. Also a cheque of 6th October 1930 drawn by Broad Street Press on Barclays Bank payable to cash for £750, cleared on 8th October 1930, through the Midland Bank, Coleman Street, for the account of the North of Scotland Bank Ltd. EXHIBIT 153.

There are entries as to those two cheques in the cash book Ex. 63, and they are credited to the account of H. Wise at the North of Scotland Bank.

In the cash book Ex. 63, the cheque for £880.10.0 EXHIBIT 152, appears as "B. Smith £880.10.0" and the cheque EXHIBIT 153 as "S. Tanfield. Cash £750."

I also produce a cheque of 3rd October 1930, drawn by Broad Street Press on Barclays Bank Ltd. payable to General Mining Corporation Ltd. for £1000 EXHIBIT 154. It
336 is endorsed on behalf of "General Mining Corporation by F. Newbery director" and cleared through Barclays Bank Ltd. Basinghall Street on 6th October 1930.

That cheque appears in the cash book Ex. 63, unposted. The entry is "General Mining Corporation Ltd. £1000."

12th Mar. 1931. Recalled—

I produce Ex. 183 the journal of Broad St. Press Ltd. It contains an account headed Sunbeam Presswork & Conveyors Ltd. (at fo.51A) shewing that 14,600 shares had been credited to Clients ledgers to the value of £4,734.4.0.

For Elman

No date is given.

CYRIL THOMAS NEWMAN.

337 25th February 1931. ALFRED PERCY SPRANGE—Recalled —On Oath saith:—

I produce a print of a special resolution of the Vulcan Copper Mines Ltd. of 12th June 1930 for the increase of the Company's capital from £200,000 to £600,000 Ex. 155. It states that the resolution was passed at a meeting of 12th June

and confirmed at a subsequent meeting on 27th June. Those two meetings were not in fact held. Those resolutions were not passed.

I signed the document EXHIBIT 155 at Mr. Newbery's request. I should say that Mr. Newbery in fact managed and controlled the Vulcan Copper Mines Ltd.

My co-director Bonnard and I did not manage or control the Company in any way.

Looking at the cheque Exhibit 57 for £830 payable to Klein signed by me and Bonnard. I did not authorise the payment of that money to Klein. I signed that cheque at the request probably of Newbery. I am not certain. I think it was Newbery.

ALFRED PERCY SPRANGE.

338. 25th Feb. 1931. ARTHUR JOHN ALDIS on Oath saith as follows:

I am a Chartered Secretary at 25 Victoria Street, S. W. 1. I know the accused Newbery. I have known him in business for 30 years.

At the end of May or early in June 1930 I met him casually in Victoria Street and after a general conversation I told him I was looking round for one or two small Companies and asked him if he knew of anything to let me know.

A week or so later he called at my office with Mr. Sprange and Mr. Bonnard. Newbery introduced them to me as Directors of the Vulcan Copper Co. I already knew Sprange. Newbery said the Vulcan Company had recently been registered in Southern Rhodesia and its registered office and some Directors were at Buluwayo, but that they required a London Office as there were London Directors and for purposes of transfers. It was suggested that the London Office should be my office and I agreed to that and to act as transfer agent, at a remuneration of £150 a year. Subsequently I was paid one quarter's rent by cheque. I received no further rent.

Correspondence came to my office for the Vulcan Coy. and was re-posted to Newbery's office by my clerk.

Later the Share Registers arrived and remained at my office until the Official Receiver took them away.

No Board Meetings of the Company were ever held at my

office. No representative of the Company attended there daily. Anything that came was re-posted to Newbery's office.

On 16th September 1930 I received a visit from Inspr. Wiltshire and in consequence of that I wrote to Newbery a letter copy produced Exhibit 156.

On 18th September Newbery called on me. He said he had received my letter and asked if I knew the nature of the complaint.

I said I understood it had come from Liverpool.

He said naturally if a complaint was received it was the duty of the police to make enquiries, but there was
339 nothing in it. The preliminary work of the Company was being got on with as fast as possible and there was nothing to worry about.

Newbery was at my office on several occasions after that interviewing shareholders. I had no further conversation with him.

On November 13th a representative of the Official Receiver called and I handed over to him all the property of the Company and that was in my possession.

Between 18th September and 13th November I had to interview numbers of shareholders of the Company. No one else saw shareholders of the Company at my office except my clerk and me and Mr. Newbery.

By Court.

Beyond Mr. Sprange and Mr. Bonnard, I never saw anyone else connected with the Vulcan Copper Coy. at my office except Mr. Newbery.

ARTHUR JOHN ALDIS.

340 25th Feb. 1931. EDWARD ANDREW STIRLING on Oath saith:

I live at 23 Brighton Road, Purley. I am an Accountant. I am Secretary and a Director of African Construction Corporation Ltd. registered office 15 Copthall Avenue. I am also a Director of the Mezzanine Syndicate Ltd. registered office also at 15 Copthall Avenue. I became Secretary and Director of African Construction Corporation at Mr. Newbery's request. I am the registered holder of 1000 shares for which

Mr. Newbery paid. As director I look after exploration work going on in other parts of the world. I do not personally in any way control the Corporation. Mr. Newbery provides for it financially through various friends and Companies. As to Mezzanine Co. I cannot say if I hold any shares. I presume I am a registered holder. I draw cheques regularly for the staff salaries. The Mezzanine Syndicate does nothing but pay the salaries of the staffs of various Companies at 15 Copthall Avenue. The Syndicate business is the provision of office accommodation and staffs of the Companies housed at 15 Copthall Avenue, of which Exhibit 147 is a list, except that the Dallas Wyoming Oilfields Co. and the Mano Marques Co. (the second and last on the list) are not housed there, although their names appear on the door.

I don't know the names of the shareholders in the Mezzanine Syndicate and I believe Mr. S. Brignell holds some shares. I believe Mr. S. Brignell is also a director.

The money paid by the Syndicate in salaries comes from the different Companies and failing them from Newbery's Syndicates. The Companies are controlled by the various Boards. As a Director I don't control any of them. As a Director of the Syndicate I control it to the extent of drawing the cheques for salaries.

The African Construction Company is controlled, as far as the financial position is concerned, by Newbery.

By Court:—

The business of that Company is to send engineers to various parts of the world prospecting and to secure properties for sale to other companies. I believe properties
341 have been sold to Australian Companies. I believe a property has been sold to Gwalia Gold Mining Coy. Ltd. which has gone into liquidation. The Corporation has not a staff of engineers. We engage an engineer when we find a property. The money necessary is provided by Mr. Newbery and his Syndicates, *e. g.* General Mining Corporation, Transvaal Financial Trust.

Further Examined:—

Permanent Investments Ltd. is not one of the Syndicates neither is Pretoria Mining Estates Co. Ltd.

About the middle of April 1930 I was asked by Newbery to

draft a cable to Mr. Fraser of Buluwayo to register a Coy. Vulcan Copper Mines Ltd.—in Rhodesia. The expense of registration in Rhodesia is about one eighth of the expense in this country.

I never met Mr. Fraser.

I drafted the cable, and submitted it to Newbery, and it was sent off. The cable requested the registration of the Company for £200,000 in 10/- shares, and the adoption of Articles of Association similar to those of the Belingive Gold Mine Co. or other similar Mining Coy.

Later I heard of the appointment of Mr. Sprange and Mr. Bonnard as Directors in London and I met them.

About the early part of June Newbery told me the Company was going to do bigger business and asked me to draft a cable for the increase of the capital of the Coy. to £600,000 in 12/- shares and I drafted a cable accordingly and handed it to Newbery.

I drafted the document Exhibit 155 before the 12th June after the first cable to Fraser, and before the second one.

I cannot say if I attended a Meeting at which an increase of capital was resolved upon.

Ex. 155 is signed by Sprange. I gave it to Sprange to sign, it had to be signed by him before a Notary and I gave it 342 to him for that purpose. I believe it went to Fraser on 27th June. I inserted the dates 12th and 27th in Ex. 155 on Newbery's instructions.

I drafted the form of the Agreement Ex. 58 probably 2 or 3 days before 27th June, upon Newbery's instructions.

Newbery prepared the schedule and he told me the Vendors would be Permanent Investments Ltd.

The wording of the recitals and agreement were taken from other old Agreements.

I see the signature "Ira C. Ozanne" to the Agreement.

I knew Mr. Ozanne was a director of Permanent Investments Ltd. and I had seen him at 15 Copthall Avenue, from time to time, about this time.

The other Director of Permanent Investments Ltd. was the accused Newbery.

I have not seen any plans or reports or documents relating to the properties in Africa.

It was not my business.

I have seen a report, but I did not read it. It was a long report.

I opened the banking account of the Vulcan Company with a cheque for £33,000 from Broad Street Press Limited and one for £200. I do not know where the £200 came from.

This letter EXHIBIT 61 was, I believe, typed at our office at 15 Copthall Avenue. It is signed by Ozanne. By "our office" I mean the office of the Companies.

Exhibit 16 is a photograph of Mr. Klein. I saw Klein at
15 Copthall Avenue about 20th or 21st October 1930.
343 I fix that date because Newbery was called away suddenly to Paris and told me that Klein would call and I was to see him.

I pointed out to Klein that Broad Street Press had failed to send in proper written nominations, that they had sent in a bundle of names without proper identification, causing a lot of confusion between the two companies, the Vulcan and the Rhodesia Companies.

Klein said it was due to their having no one there to manage it properly.

He said if I would draft what was wanted he would send round note paper to have the nominations under the various dates signed, that he would send round Mr. Osborne to sign them.

Klein did not say what business he had come to see Newbery about.

Shortly after a messenger brought round a parcel of Broad Street Press Notepaper and I drafted the nomination letters.

Mrs. Penn typed them, and Mr. Osborne eventually signed them. Newbery was at the office when Osborne signed them but not in the room. He knew Osborne was there. Newbery told me that Osborne had come. I had told Newbery why Osborne was coming.

I did not see anybody come with Osborn.

I put the letters before Osborn for signature. Osborn said he did not understand the matter and I told him
344 to read the letters.

EXHIBIT 144 are the nomination sheets. I asked Osborn to initial them. He signed the letters which are in Exhibit 56.

At the same time Osborn signed similar letters for the Rhodesia Company. The nomination sheets were not then available and were therefore not initialled. EXHIBIT 140 are the letters.

Court:—

I cannot say who asked Sprange to sign the document, Exhibit 155.

When I drafted the document Exhibit 155 the meetings referred to had not been held. I knew they had not been held. I understood from Mr. Newbery and generally that the meetings would be held and that the business would be carried through.

My remuneration as Secretary of the African Construction Company was £400 a year. That was my total remuneration for all the work I did at 15 Copthall Avenue, all paid by the African Company.

Further Examined.

I know Stanley Grove Spiro. I saw him at 15 Copthall Avenue about once a week though not regularly. He called to see Newbery.

I remember correspondence from the Company to Broad Street Press as to allotment of shares to nominees in accordance with nomination lists. Produced Exhibit 157 are copies of such letters from the Company to Broad Street Press. They were typed at the office 15 Copthall Avenue. I should think about the time the nomination letters were signed—about the end of October. The originals were never sent to Broad Street Press, they had already had the shares. I
345 don't know whether the shares were allotted systematically or haphazard. I don't know how they were allotted.

I cannot say when the list forming the basis for allocation of shares for cash and Vendors shares was prepared. I believe notes were made when the shares were allotted.

This copy letter Exhibit 158 from Vulcan Company to Broad Street Press is dated 30th June. I believe it was typed some time in October 1930. I believe Mrs. Penn typed it on Newbery's instructions. She usually typed letters.

I drafted the form of the agreement Exhibit 132 between the Pretoria and Rhodesia Companies, on Newbery's instructions. I got the form of it from the other agreement between Vulcan and Permanent Investments. I handed the draft agreement to Newbery and he prepared the schedules. That was about the end of July.

The Directors of the Rhodesia Company were known to me, both Hill and Harry Brignell.

I had nothing further to do with the Rhodesia Company until October.

Mr. S. Brignell was engaged upon the issue of shares of both the Companies.

I did not notice if there was any proper identification of the shares allotted with the nomination letters.

I heard of a proposed amalgamation of the Vulcan and Rhodesia Companies, Newbery discussed it with me some time in October.

346 The originals of the copy letters of nomination, Exhibit 140 were never completed and sent because the shares had already been delivered. The dates of the nomination letters were fixed I believe by the dates when the names were sent in.

I knew nothing about the circular Exhibit 104.

EDWARD ANDREW STIRLING.

347 25th February 1931. SIDNEY BRIGNELL, on oath saith:—

I live at 47 Londesborough Road, Stoke Newington.

I am Company Secretary, employed by the Mezzanine Syndicate at 15 Copthall Avenue as a Director.

I hold 121 shares in that Company. I did not pay for them. They were transferred to me from a Director who resigned. I don't know who paid for them.

My remuneration is £200 a year for all my activities at 15 Copthall Avenue, paid by the Mezzanine Syndicate.

I have known Newbery since 1913 or 1914.

I am Secretary of about seven other Companies at 15 Copthall Avenue, they are all mentioned in the list Ex. 147.

I take instructions on my various duties at 15 Copthall Avenue from Mr. Stirling, Mr. Newbery and from the boards of the different Companies.

Apart from my war service I have been engaged at 15 Copthall Avenue since 1913.

The different boards of the different Companies control the business transacted at 15 Copthall Avenue.

I cannot say definitely who is the real control.

Early in 1930 Newbery asked Stirling and me if either of us knew of any person who could become Secretary of a Company. I don't think he mentioned the name of the Company. I suggested A. M. Smith and introduced him to Newbery.

I filed the particulars of the Vulcan Copper Co. at Somerset House. I'm not sure if I did it on my own initiative or on Newbery's instructions. It was some time ago.

This cablegram EXHIBIT 159 from Celtic to Nuttalite refers to the Vulcan Company. "Celtic" is Fraser in Buluwayo. "Nuttalite" is a general name for the Companies at 15 Copthall Avenue.

As to Exhibit 57, cheque £830 to Klein, the name "A. Klein" is in my handwriting. I think the rest is in Sprange's handwriting.

The cheque book was in my charge. I cannot remember any occasion asking the directors to sign a blank cheque.

Produced EXHIBIT 160 is a letter signed by Newbery from Permanent Investments Ltd. to the Vulcan Co. asking
348 for that sum of £830 to be paid to Klein, and for a cheque to be drawn in his favour and sent to Permanent Investments Ltd.

I saw Klein at 15 Copthall Avenue in September or October 1930. Exhibit 16 is his photograph.

I had charge of the clerical work on the share certificates, on Newbery's instructions in June 1930.

I worked from typed lists received from Mr. Spiro. I knew they had come from Broad Street Press. I had known Spiro for some years. Newbery knew him. He used to call at 15 Copthall Avenue once or twice a week.

I received many further lists of names. I fetched them from 2 Broad Street Place, the office of "Finance." When I called for them there I would see Mr. Green, or Geen, and Mr. Guest, whose photograph is Exhibit 20. I saw many other persons there, none who are now before the Court.

I took the completed share certificates to Broad Street Press.

I put on the Company's Seal after the Directors had signed.

I received nomination lists from Broad Street Press. There was no indication as to whether they were cash or Vendors shares. On two occasions, it was pointed out that certain shares were to be cash shares.

Exhibit 146 shews the issue of 920,427 vendors shares and 63,150 cash shares.

Those figures were given by me. I don't know how those figures were arrived at. I got them from my own records.

I don't know how I differentiated between the numbers 349 of cash and vendor's shares.

I gave Mr. Sprange the total number of shares issued, 983,000 odd. I don't know how he split them up. Exhibit 146 is the Journal, it is in Mr. Sprange's handwriting. It was made up after 10th November.

Mr. Stirling was the manager for all the Companies at 15 Copthall Avenue. I don't know who controlled him.

I know nothing about the circular letter Exhibit 104. I had nothing to do with drawing it up. I don't know who drafted it.

The Minutes on pages 1-9 of Exhibit 63 are in my handwriting. I was not present at any of those meetings. I wrote the minutes up in November as I considered the minutes should be written up. I wrote them all at one time according to what I thought ought to have taken place.

The directors had met many times in my presence, not at 25 Victoria Street. I recorded the meetings as taking place there merely for the look of the thing.

I put in the appropriate dates. The date 27th June I took from the date of the agreement.

I got Bonnard to sign the Minutes. I think all at one time, sometime in November. I cannot remember whether it was before or after the presentation of the Petition for winding up.

Pages 11, 12 and 13 and 15 in Exhibit 63 were written by Smith on my instructions about a week after I wrote pages 1-9.

The typed sheets of Minutes were, I think, drawn up by me, they were drawn up either by me or Stirling.

The books of the Company consisted of 3 share ledgers, a cash book, ledger and journal.

I think the share ledgers were bought in July.

I bought the other books in November, I think on November 11th.

This is the Company's Cash Book EXHIBIT 161.

It shews under date 31st July 1930 a payment of £200 "by remittance account (per Permanent Investments) to Rhodesia on account mining expenses."

350 Produced EXHIBIT 162 is a cheque. I drew that cheque upon Newbery's instructions in refund of an amount which he said he had remitted in Rhodesia. There is no voucher for that payment. That £200 came from the account

of Vulcan Copper Mines Ltd. The Company had then received £33,000 from Broad Street Press.

I signed letters on behalf of the Company in the name of A. F. Smith with my initials underneath. I wrote most of such letters on my own initiative. I was acting as secretary on Newbery's instructions. Mr. Smith had no experience, and Newbery had asked me to take charge of the clerical work.

On 26th September I received this letter from Vaughan to the Vulcan Company Exhibit 163.

Produced Exhibit 164 is the reply I sent. I expect I signed the original in the name of Smith.

The statement in that letter that the Company owned mining claims was not strictly true. The Company had not completed the purchase. I knew they had got the money and were ready to pay.

The engineer who is there stated to have recently arrived in Rhodesia was Mr. Pearson. He was being paid, I think, by Permanent Investments Ltd. who were the Vendors. In the letter he is described as the Vulcan Company's engineer, that is the Purchasing Company.

It was the intention of the Vulcan Company to avail themselves of his services when he was out there.

I remember receiving this letter from one Fraser, at 15 Copthall Avenue, Exhibit 165 and this is the reply I sent Exhibit 166. I think I signed that letter in the name of
351 Smith without Smith's authority. A good deal of development work had been carried out.

(This admission of the correspondence objected to by Mr. Frampton, objection overruled and correspondence admitted.)

Mr. Harry Brignell was a director of the Rhodesia Co. Newbery asked Stirling and me if we knew of anyone suitable to be a director of a company about to be formed. I recommended my brother Harry Brignell.

Newbery said the Company was to be a mining Company registered in Buluwayo.

I did the same work as I did for the Vulcan Company. Mr. Newbery asked me to take on the share certificate work and I also did the secretarial work. I don't think I had any instructions to do that.

I registered the Company on my own initiative.

I was to be paid for my work, the fee had not been fixed. I discussed the fee with Newbery and the Directors.

On 21st August 1930 Mr. Spiro handed me £29,000 in bank notes. Mr. Brett and Newbery were present. I paid it into the account of T. W. Webb & Co. Ltd. A few days after I saw Spira again at my office, 15 Copthall Avenue. He saw Newbery:" Spiro left with a cheque drawn on Permanent Investments Ltd. I don't know for what amount.

I did the work on the Share Certificates as in the case of the Vulcan Company.

I think I dictated the letter Exhibit 137 on Newbery's instructions. Newbery told me he expected Broad Street Press would exercise their option.

5th March, 1931. Recalled:

The agreement between the Rhodesia & Pretoria Co. was not completed on 31st October 1930, it was extended for 2 months. I do not know the reason. I heard of the ex-
352 tension from a letter from the Vendors to the Company from the letters produced EXHIBITS 134 and 135.

I heard of a suggested amalgamation of the Vulcan and Rhodesia Companies; from the accused Newbery. He told me that the amalgamation would save transfer fees to the two companies, their interests being similar.

I have seen the circular letter Exhibit 163 from Broad Street Press. I do not know who furnished the particulars given there. They appear to be similar to the schedules in the agreement, which were drafted by Newbury. I took no part in furnishing those particulars.

I drafted the minutes in the minute book of the Rhodesia Company, Exhibit 133 on two different dates from the particulars in the Company's files, the files in the office.

Mr. Leme wrote all the minutes, and I got Mr. Jesse Hill to sign them.

None of the board meetings were actually held as stated in the minute book Exhibit 133.

I conducted practically all the Company's correspondence.

The banking account of Permanent Investments Ltd. was with Barclays Bank, 70, Basinghall Street.

On a date in November I went to that bank and cashed a cheque for £5,000 for Newbury. He told me if they had not sufficient large notes at the branch I should obtain a draft on the head office. I did so, cashed the draft at Barclay's head office, and gave the money to Newbury.

I am London Secretary of Roode Klip Gold Mining Co Ltd. The directors are The Hon H A Stanhope, H J Clarke, D Alton and H Phillips.

The London offices of that Company are at 15 Copthall Avenue, at Newbury's offices. The head office is at Johannesburg.

That Company has not paid a dividend during the 10 years that I have been secretary.

The company is the registered owner of the properties in S W Africa that were sold to the Vulcan and Rhodesia Companies.

It holds these properties as trustee for the Permanent Investments and Pretoria Company.

The company has no beneficial interest whatever in those properties. It holds them merely for convenience, for exemption from taxation purposes.

The Roodeklip Co. gave a power of attorney to the Permanent Investments Co on 13th October, 1930, to facilitate transfer of the properties. The properties were never to my knowledge transferred.

Newbury and his friends have a large share interest in the Roodeklip Co.

SIDNEY BRIGNELL.

334 5th March, 1931. REGINALD DEVEY on his Oath saith:

I am Securities Clerk, Midland Bank, 99, Moorgate.

I produce the draft for £28,000, Exhibit 467, in favour of Pretoria Mining Estates Ltd., dated 25th August, 1930. It has been paid by my bank, to the National Provincial Bank, Guernsey.

REGINALD DEVEY.

335 5th March, 1931. ANTHONY EDGAR SOMERS on his Oath saith:

I am a Company Director at Copthall House, Copthall Avenue.

I know Mr. Richard Haden Guest.

In October 1928 he introduced me to the man whose photograph is Exhibit 16, as Mr. A. J. Klein, at my office, as a man who could do considerable blocks of underwriting.

At first it was suggested that he should underwrite small amounts, but Klein suggested he could undertake large lines of issues but would want a share of the profits.

To guarantee the Copthall Securities Ltd. was formed and registered in October 1928, registered offices at 3, London Wall Buildings, with a capital of £100 in £1 shares, 50 of which were held by Klein, 49 by me and 1 by my Secretary, Miss Stoller.

Later some business was done through Copthall Securities in connection with Acoustic Radio Ltd. I don't know what was done. I resigned.

Before I resigned it was proposed that Copthall Securities should act as issuing house for a new issue of Acoustic Radio shares. I was unable to do any underwriting in connection with that issue and Klein asked me to resign my holding and I and my Secretary did so, and our shares were assigned to Klein.

ANTHONY EDGAR SOMERS.

356 5th March, 1931 RICHARD OLIVER MITCHELL on his Oath saith:

I am a company Director at Moorgate Hall, 153 Moorgate, the address of London Exchange Ltd., of which I am managing director.

I know A. J. Klein, whose photograph is Exhibit 16.

I met him about April 1930.

He told me he had £40,000 or £50,000 invested in Fisher's Foils and wanted to strengthen the board of that Company and asked me if I could suggest somebody of character and integrity to become directors and I suggested several names.

Klein asked me if I would mind him saying that I had a big holding in that Company either to the gentlemen I mentioned or to the Board, as a reason for putting them on the Board.

I did not object to that.

I heard no more of the matter till August 1930 when someone, I think it was Klein, telephoned to me and asked me to sign a letter. I understood him to mention an arrangement for disposal of his shares in Fisher's Foils.

I then received this letter, Exhibit 41. It was then signed by Elman. I read it and I then refused to sign it, but I

allowed the secretary of London Exchange Ltd., Mr. Woodley, to sign it, and I returned the letter to the messenger who brought it

I have met the accused Elwian

I think it was Klein who introduced me to him

Richard Oliver Mitchell

337 5th March, 1931 Ernest Arthur Woodley on his Oath saith

I am secretary of London Exchange Ltd., Moorgate Hall, Moorgate, E.C.

The letter Exhibit 41 bears my signature I signed it at Mr Mitchell's request

I had no knowledge whatever of the matters referred to in that letter

Ernest Arthur Woodley

338 5th March, 1931 Frederick Henry Manning, Recalled, on oath saith

I produce Exhibit 169 a cheque dated 4th February 1930 for £2,300 drawn by Arthur J Klein p p H. Wise, to Manning & Sleigh, on the North of Scotland Bank, Lothbury

That was in payment for 23,000 Sunbeam Preserwork & Components shares at 2 a share

Mr Sleigh had my part of that £2,300

The cheque was drawn in accordance with the agreement Exhibit 30 as a first payment

This similar cheque for £1,250 dated 12th March 1930 Exhibit 170 was paid for further Sunbeam shares as per the agreement Exhibit 30

I paid that cheque into my own account with the Midland Bank and then drew a draft for the same amount less commission

I paid the draft to the Westminster Bank Ltd. so that the Bank should release the shares in accordance with the agreement

I produce a similar cheque for £250 dated 17th February 1931 Exhibit 171

That was handed to me by Klein who asked me to have the

closing prices of certain shares quoted in certain provincial newspapers every evening, Sunbeam shares and several others.

I placed that business with Mr Cuthbertall, publicity agent and paid him.

I produce a cheque of 3rd March 1930 to Cyril de B. James & Co. for £58.10 Exhibit 172 signed "pp. H. Wise, Arthur J. Klein," a similar cheque of 11th March 1930 for £327.13.10 Exhibit 173 and a cheque for £1,000 of 14th March 1930 to myself, Exhibit 174.

These cheques were for purchase in the name of Sleigh of shares on the London Stock Exchange and for the balance of the Sunbeam shares taken up by Mr Klein.

I produce a similar cheque payable to myself for £778, dated 11th March 1930 Exhibit 175. That was for the 359 Ord Sunbeam shares.

The cheque Exhibit 175 was paid into the account of C. de B. James & Co. at Barclays Bank and the necessary amount was paid to Westminster Bank for the release of the shares.

This cheque of 10th March 1930 for £1,000 on the account of Broad Street Press Ltd., payable to C. B. James & Co., Exhibit 176 was paid for the purchase of shares on the open market.

I produce Exhibit 177 a copy of the account in the books of James & Co. with Mr Sleigh and Klein. It is a correct account of matters which I personally dealt with.

Cross-Examined for Elman:

These cheques were, some of them, for purchase of shares in the open market. None of these shares, bought in the open market, were Sunbeam shares.

The figures in the third column of Exhibit 177 give the prices of the Sunbeam shares bought in the open market.

FREDERICK HENRY MAGGIES.

360 5th March, 1931. AGNES MADELEINE PENN on her Oath saith:—

I am married and live at 39, Balfour Road, Highbury.

I am a shorthand typist employed by the Mezzanine Syndicate Ltd., 15, Cogthall Avenue for about 11 years.

Occasionally I have worked in the office of T. W. Webb & Co. Ltd., at 5, Moorgate Buildings usually on the instructions of Mr. Sterling or Mr. Sidney Brignell.

I see the letters inside the cover of Exhibit 56. I typed those letters at T. W. Webb & Co's office upon the instructions of Mr. Sterling. He gave me the drafts.

I typed all those letters on two occasions, about the end of October, I think. I don't think I typed any of them in the early days of July.

Having typed them I gave them to Mr. Sterling.

The paper on which they are typed headed "Finance," was given to me by Mr. Sterling.

In Exhibit 56 are some typed minutes. I typed them, on, I think, Mr. Sidney Brignell's instructions, at 15, Copthall Avenue, all on one or two occasions. I believe Mr. Sidney Brignell supplied the drafts. I really don't remember when I typed them, it might have been October or November.

Sometimes I typed letters on Newbury's instructions. I have typed letters in connection with Permanent Investments Ltd. They were dictated by the accused Newbury.

I typed the letter Exhibit 61 of 1st July, on, I think, Newbury's instructions.

I don't know who controls the Companies housed at 15, Copthall Avenue.

AGNES MADELEINE PENN.

361 5th March, 1931. JOSE DE CAMARA LEME on his Oath saith:—

I am a civil engineer.

I live at 31, Upper Bedford Place.

I am employed by the Mezzanine Syndicate Ltd., as registrar of several Companies at 15, Copthall Avenue.

I have known the accused Newbury since 1913. I asked him for a situation and on that I became registrar of these companies in 1916.

I wrote some Rhodesia Co. share certificates in my spare time, on the instructions of Mr. Sidney Brignell, who was in charge of the clerical work.

I wrote some of the minutes in the minute book Exhibit 133. I found the book and some type copies of minutes on

my desk and in the ordinary course of my duty I copied the draft minutes into the book.

I took my instructions in the ordinary course of business, from Mr. Sterling and Mr. Brignell.

I saw Newbury at the offices. I sometimes took instructions from Newbury, not frequently.

I think I wrote all the minutes at one time.

I made no enquiries from anybody before I copied the draft minutes into the minute book Exhibit 133. I did not inquire if the meetings had been held.

My salary was £208 a year for all the work I did at 15, Copthall Avenue. The Mezzanine Syndicate paid me in one weekly sum of £4.

I was registrar of all the companies on the list Exhibit 147 except Dallas Wyoming and Mano Marques—the second and last on the list.

Cross-Examined for Newbury:

The instructions I received from Newbury were sometimes to make a list of shareholders and sometimes a list of shares held by shareholders.

That occurred very seldom.

JOSE DE CAMARA LEME.

362 5th March, 1931. FREDERICK WILLIAM JAN on his Oath saith:—

I am a partner in the firm of Hillman & Co., printers and publishers, 2, Wine Office Court.

In August 1928 on a telephone message I called at 2, Broad Street Buildings, the offices of Broad Street Press Ltd., I saw a man giving the name of Walker. Exhibit 20 appears to be his photograph.

He said he desired to bring out a first class financial weekly paper and asked if we could print it.

I said we could not.

He did not then say the name of the paper.

I said if he desired we could arrange for the printing of it.

We arranged for the printing by the Argus Press of Tudor Street, through whom three weekly issues were printed. The title of the paper was "The City News."

Walker then told me the printing was not satisfactory and he would rather it were done by another firm, Messrs Williams Lea & Co, of Worship Street

He said he wished us to continue to look after the printing and to supply the trade from our office as before

It was arranged that we should have for commission on the printing account for our time and trouble and use of office

It was arranged that we should get various small articles of stationery, etc

The original order was for 100,000 copies of the paper weekly

The "City News" printed in that way until 15th June, 1901

From that date the title was changed to "Thames" thus printing the "City News"

On the "City News" I & I Osborn was stated to be editor I never met him

The title continued to be "Thames" until Broad Street Press went into liquidation

I had occasion to call at the offices of Broad Street Press on many occasions

I saw there very often the head cashier, and Abbotsbell, the staff manager, and on rare occasions Walker

I saw there photograph Exhibit H on several occasions there

I think I saw once or twice the man whose photograph is numbered (1) on Exhibit H I know him as Brown

I saw the accused Spellen there on one or two occasions, but none of the other three accused

Broad Street Press Ltd paid for the printing, by cheques signed by the two directors. The first two or three cheques were drawn by Walker

I never met Norman D Spencer described in the paper as Editor of "Thames"

I know nothing about the printing of the book "Stock Exchange Practice" although it purports to have been printed by my firm

Thomas William Lea

3004 9th March, 1981 Leslie Williams on his Oath saith:

I am employed by Williams Lea & Co Ltd, printers, Clifton House, Worship Street, E.C.

At the beginning of October 1968 I went to the offices of Bread Street Press Ltd, 3 Bread Street Buildings in response to a telephone message.

I saw there Mr Walker, Mr Spellen the manager, and I think Mr Green Document 31 is a photograph of Walker

Mr. I am Document 11 is a photograph of Mr Green

I had a conversation with Walker and Spellen

Walker asked me to consider the printing of "City News" as they were dissatisfied with their present printers and after a discussion I was asked to undertake the printing as from 2nd October and I agreed, subject to submission of estimates and eventually, we received orders

It was stipulated that Williams & Co should remain as the official trade agents

At first approximately 5,000 copies of the paper were printed, and later the normal weekly issue was between 5,000 and 8,000 copies

There were occasional special issues, much larger The largest was 12,000 on 12th December 1968

We continued to print the paper until 26th Oct 1972

Bread Street Press Ltd rented some rooms in Worship Street, two doors from our premises I don't know what was done there

From time to time I called at the offices of Bread Street Press, quite frequently

I usually saw the manager Spellen I considered him as doing the journalistic side of the paper

I never met Brennan to Spencer or A S J Tyrrell

I saw Mr Dubrey there

I regarded Spellen as the editor of the paper

In the early days I frequently saw Walker there, but not so often latterly

3005 I saw Klein there frequently

I saw the manager J Wise there occasionally

By the Court

From conversations between J Wise and other people there I understood he was selling jewellery to people there

Further Examined:

I saw him there about 12 times in 2 years.

In the early stages I saw Walker there once a week. I usually went myself twice a week.

Cross Examined for Spellen:

On the first interview I received my instructions from Walker, and he eventually came to terms with me as to the printing.

I knew Spellen as a journalist and so I understood him to be the editor, but only from the fact that I knew him to be a journalist.

By Court:

I did not know him to be a journalist before. I considered him to be the editor because I received the copy of articles from him.

Further Cross Examined for Spellen:

When I went to the office in October 1928, I saw three persons. The conversation was general with Walker and Spellen. Spellen and Walker both made suggestions as to the production of the paper.

So far as the printing contract was concerned, that was entirely between me and Walker.

As regarded the make up of the paper, Walker asked Spellen's opinion.

Spellen only dealt with the general get up of the paper.

Sometimes I handed the proofs to Spellen.

366 I know that it is not always the editor who corrects proofs.

Spellen had nothing whatever to do with the placing of the contract with us.

I also took proofs to other persons, to Mr. Detroz, and I received manuscript from him.

Cross Examined for J. Wise:

I knew J. Wise as a dealer in precious stones, and have seen him endeavouring to sell jewellery at another office in the City.

Re Examined:

The other office I've seen J. Wise at is 2 Broad Street Place, the offices of Broad Street Press Ltd. I've seen him there several times.

Further Cross Examined for J. Wise:

I have also seen him at an office in Copthall Avenue, endeavouring to sell jewellery.

Re Examined:

I can't remember the name of the office in Copthall Avenue.

I called at 2, Broad Street Place occasionally to see the sub editor, Mr. Detrez. It was then that I have seen J. Wise there.

I saw a brass plate outside 2, Broad Street Place. The name J. Wise was on the plate.

Further Examined in Chief:

We printed the book Exhibit 97.

I don't know who wrote the book.

I received the copy for that book. I received most of it, as far as my memory serves me, from Mr. Detrez.

I consulted Walker, Spellen and Detrez from time to time during the production of the book, as to the printing and 367 arrangement of the book. The "copy" was typewritten.

I never met the author, A. S. J. Osborn.

18th March, 1931. Recalled:

About 15th Oct. 1930 Spellen told me the next issue of "Finance" would be called "Financial Observer." That was at 2, Broad St. Place.

Spellen told me then that Broad St. Press was closing down and that a new Co. Throgmorton Press Ltd. was taking over the paper.

I received copy for the issue of 22nd Oct. from Spellen and for the further issues up to 5th Nov.

I asked Spellen to whom the accounts were to be rendered and he said: "To Throgmorton Press Ltd."

William Lee & Co. Ltd. never received any instructions from the directors or secretary of Throgmorton Press Ltd. nor any communications from that Co.

Cross-Examined for Spellen:

Except through Mr. Spellen.

LESLIE WILLIAMS.

5th March, 1931. MARGARET WOOLLENDS on oath saith:

I live at 33, Cherington Road, Edmonton.

In September, 1928, I obtained a position as Bookkeeper at 2, Broad Street Buildings. I was engaged by Mr. Monserrell. I understood Mr. Spellen was the Manager, Mr. Monserrell told me he was engaging me as bookkeeper to J. Wise.

I saw Mr. Walker, photograph Examr 20, and Mr. Klein, photograph Examr 46, at the offices, and I saw Mr. Green, photograph No. (1) on Examr 17, he called there.

I saw the accused J. Wise there, he only called occasionally.

I saw the accused Elman there occasionally.

The accused Spellen was always at the office.

Walker was there frequently for the first few months. After that he went away for some time. During his absence letters were posted to Walker, sometimes to him at Paris.

On one occasion I answered a telephone call from Paris on Mr. Spellen's private wire. I recognized the voice as that of Walker.

I left at the end of January, 1930, and went to my present employer, Wrigley's, Tottenham Court Road.

12th March, 1931. Recalled:

I produce a written reference given to my present employers when I left the employment at 2 Broad St. Buildings, Ex. 178.

It is signed "J. Wise." I don't know the handwriting of that signature. It is on printed notepaper headed "J. Wise."

Cross-Examined for J. Wise:

I have never seen the accused J. Wise write.

MARGARET WOOLLENDS.

5th March, 1931. LEONARD VICTOR SHORTLANDS on oath saith:

I live at 15, Greenwich Road, S. E. 10.

I am employed as invoice clerk.

In March, 1930, I obtained employment with Broad Street Press Ltd. Mr. Monerieff engaged me as junior clerk 369 and office boy, at 2 Broad Street Buildings.

I was instructed to go to work at 14, Copthall Avenue and to ask for Mr. Spellen. I went there and saw the accused Spellen and a typist.

A room on the first floor was occupied by a Mr. Holne. He gave up that room and it was then occupied by Mr. Klein, whose photograph is Exhibit 16, and by Mr. Spellen.

The name on the door of the office 14, Copthall Avenue, was United Overseas & Investment Trust Ltd.

One of my duties was to answer the telephone. I received calls from William Lee & Augustus Young. I can't remember anybody else.

I saw a Mr. Green at the office. Photograph No. (1) on Exhibit 17 is something like him. He occupied an office opposite Klein's office on the first floor.

I was also on the first floor.

I saw Mr. Guest, photograph Exhibit 20, there. He was regularly there.

I remained there till the end of April, 1930, and then was told by Spellen to go to 42, Cornhill.

The telephone calls from Augustus Young were for Mr. Spellen.

There was no name on the door of the offices at 42 Cornhill when I first went there. Later the name F. Jackson was put up.

I saw at 42, Cornhill, Spellen, Klein, Guest and once or twice the accused J. Wise, and once or twice Green.

I saw Elman once or twice at 42, Cornhill.

Later I went to 2, Broad Street Buildings at Whitsun 1930.

There I saw Monerieff, Guest, Spellen, Green. After 370 wards Klein came there.

There was a room there marked "Board Room."

Klein, Green and Guest occupied that room. They were there regularly.

Spellen also attended at the office regularly.

J. Wise did not attend regularly. I saw him only about once.

For an hour every day I had to attend to the telephone. Calls came for Mr. Spencer, Spellen, Guest, Green and Klein.

I never met Mr. Spencer.

People used to call at the office. Guest or Green used to interview them.

The telephone calls were from clients. Calls for Norman D. Spencer I put in to the Board Room.

Guest left about the beginning of November, 1930. I never saw him again.

Green left about a fortnight after and I've never seen him since.

I left about the beginning of October, and went to Ludgate House, on Spellen's instructions, to answer the telephone and inquiries, at the office of the Throgmorton Press. There was no furniture there when I arrived. Some came after about a week, furniture which had been at Broad Street Buildings.

I saw J. Wise once at Ludgate House. He inquired for a Mr. Green, not the Green already referred to.

On 25th October, I went to Broad Street Buildings to help with the stamping of insurance cards, on the instructions of the second Mr. Green.

No one else was with me at Ludgate House.

371 Guest left before I went to Ludgate House.

Cross-Examined for Spellen:

At Broad Street Buildings I was the junior clerk.

I never saw Spellen at Ludgate House.

LEONARD VICTOR SHORTLANDS.

12th March, 1931. ARTHUR CLABBURN DETREZ on oath
372 saith:—

I live at 15, Porchester Place, W. 2.

I am a journalist.

I know Mr. Hillman of Hillman & Co. printers, 2 Wine Office Court.

In August, 1928, I received a letter from Hillman and in consequence I went with Mr. Jan to a firm of stockbrokers,

Newman Williams & Co., Copthall Avenue, where I saw Mr. Savill a member of that firm.

Mr. Savill introduced me to a Mr. John Walker, whose photograph is Ex. 20.

I discussed newspapers with Walker and he told me he wished to found a new financial paper to be conducted strictly in accordance with Stock Exchange practice.

Walker and Savill were present at that interview and I think Mr. Klein was there. His photograph is Ex. 16. I am not certain if he was there.

At the close of the interview Walker asked me if I was disengaged and I said I could be at short notice.

About a week later, to the best of my memory, there was a second meeting, at the same address.

Mr. Walker took the head of the table. Klein was present part of the time and I think Mr. Jan was present.

Walker asked me to stand by for a month during which I should be paid a fee and asked if meanwhile I would prepare a dummy copy of a newspaper in conjunction with the printers. He said he would prepare a rough draft himself.

I prepared the dummy copy and there was then a third interview with Walker, when he was in a hurry and asked me to see him again.

At one of my interviews I presented the draft newspaper in dummy to Walker. Mr. Savill was also present and was shewn the dummy, and Walker told me that I should be
373 telephoned for when I was wanted.

Walker asked me to suggest a name for the paper and the name of the "City News" was decided upon. Walker told me he was to be the editor and I the sub-editor.

The first issue was issued on 19th September, 1928. I was then employed at 2 Broad St. Buildings, on the 2nd floor, until the eve of Good Friday, 1930, when we moved to 2 Broad St. Place.

Before that I had been to 2 Broad St. Place in connection with the issue of the paper and I saw there Walker, the accused Spellen and Klein.

The name J. Wise was on the door at 2 Broad St. Place, and that name was still on the main entrance to the building, though not on the door, when I moved to 2 Broad St. Place.

I was responsible for the "investment notes" on page 2 of the City News, for the "money market" article on page

2, for the article on "News issues" for general articles usually appearing on p. 5, for "topics of the week" and "How Companies are progressing," etc.

To the best of my knowledge the rest of the paper was prepared by Spellen.

On the front page the editor is stated to be A. S. J. Osborn.

I think I was introduced to him once. I never had any instructions from him as editor.

My part of the paper was alloted to me by Walker and Spellen jointly, my duties were laid down for me by them at the beginning, and I more or less myself selected the subject matter of the articles I wrote.

On June 12th, 1929, the tile was changed to "Finance" incorporating the City News and Stock Exchange Observer.

I continued to act in the same capacity as before.

No one is shewn as Editor of "Finance."

When the change of title took place Spellen told me they had acquired the copyright of "Finance" which was an old established financial paper.

I continued to receive my instructions mainly from Spellen. I did not receive many instructions from Walker after the first 3 months.

In the number of Finance dated 11th Sept., 1929, the editor is stated to be Norman D. Spencer. That is the first time his name appears. I had never met him. I did not know who he was.

I continued to do the same work as before, more or less. Mr. Spellen was responsible for the rest of the paper.

That continued until the final issue of Oct., 1930.

In August, 1930, a communication was made to me about holidays and I took no holiday, but I received extra remuneration.

Early in October, 1930, on a Tuesday morning, Spellen sent for me and told me that Broad St. Press was going to be wound up and that "Finance" would not be published again, that the whole staff would be discharged but that I was to be retained in connection with an entirely new paper to appear the following week.

On the previous Friday I had received a subpoena to appear as a witness for the defendants in a libel action between Factor and General Stock Exchange.

I at once telephoned to Spellen and asked him what it was all about.

He said: "Oh, that's all right. I'll see you about it."

On the Tuesday Spellen referred to that and said the action would not come to court.

Spellen told me a new Company would be formed to publish the new paper. I carried on in the same premises as before.

The next Monday the new newspaper appeared under the name of "Financial Observer," 4 numbers were published, 3 of them are in Ex. 128. It was printed by Williams Lee & Co. for Hillman & Co. and published by the Throgmorton Press Ltd. Either Spellen or Mr. Leslie Williams of Williams Hill & Co. told me that Co. were the publishers of the new paper.

More or less I took the same part in that paper as I did in the previous paper. Spellen was responsible for the rest of it. I took my instructions from Spellen.

Court:

The Editor's name does not appear.

Further Examined:

The last issue was on 12th November, 1930.

I took some part in compiling Ex. 97, the "Stock Exchange, its Methods and practice." I received my instructions from Walker about Christmas, 1928, at 2 Broad St. Place.

That book was printed by Williams Lee & Co.

Walker told me that Spellen would edit my portion of that book, and I took my contribution to the book to Spellen for him to edit. I understood that Spellen was responsible for the rest of the book.

Court:

I had a fair knowledge of Stock Exchange practice, but not a complete knowledge, that was why I was instructed to submit my contribution to Spellen.

Cross-Examined for Spellen:

I was recommended by Hillmans and so came in touch with Walker.

Hillmans knew me as a journalist of some standing, familiar as a journalist with Stock Exchange matters.

Spellen was not present at my first interview with Walker. It was with me alone that Walker discussed the make up of the first paper, the City News. Spellen had nothing
376 to do with that at the first interview.

At the second interview it was arranged that I should prepare a dummy and Walker said he himself would also prepare a dummy. He was quite familiar with financial newspapers. Spellen had nothing to do with that.

It was at the first interview that Walker told me the paper was to be conducted strictly on Stock Exchange principles. The paper was, so far as I was concerned, conducted on those principles.

Spellen was not present at the third, or the fourth interview when the dummy was presented.

I had 5 or 6 interviews with Walker before I met Spellen. By that time the plan of the paper had not been decided upon. It was discussed at each interview.

When I first met Spellen I did not understand that Spellen had just been engaged by Walker.

When Spellen appeared he altered the dummy; he gave the benefit of his ideas which were carried out. I also continued to give my ideas. Walker also expressed his views and Spellen his, and Spellen's views were in some instances adopted. We were discussing Walker's paper. Spellen and I were both Walker's servants, giving him the benefit of our views.

Spellen was never at Broad St. Buildings, he was at Broad St. Place.

My duties and Spellen's were allotted to us respec-
377 tively. As an experienced journalist I did not need instructions unless there was something special for me to write about.

The final decision as to our duties rested with Walker.

Spellen told me he had also received a subpoena in the action, Factor & General Stock Exchange.

I discussed with Spellen the get up of the new paper in October, as 2 practical journalists interested in the work we were engaged upon.

Spellen received similar instructions to those I received as to the book Ex. 97.

When Spellen said "they" had acquired the copyright of Finance, he was referring to the Company we were both work-

ing for. He did not give me to understand that he had acquired any interest in the paper.

ARTHUR CLABBURN DETREZ.

12th March, 1931. STANLEY GROVE SPIRO on oath saith:—

I live at 46, de Vere Gardens, Kensington.

I am a commission agent.

I know the accused Newbury. I have met Elman and Spellen. I do not know J. Wise.

378 I know the man whose photograph is Ex. 20 under 3 names, first as Walker.

He was introduced to me as Walker about 4 years ago.

I also knew him as Jack Factor, and as Guest.

The second time I met him was early in 1929.

About the end of 1929 I went to America on business and returned to England about March, 1930. A few days after my return I saw the accused Newbury at his office, 15, Copthall Avenue.

I had known him some years and had done business with him, on which I had drawn commission. At this time I knew Walker as Guest. I told Newbury that I heard that Walker was making quite a lot of money and I said there would be a good chance of doing some business with Walker.

Newbury said: "I do not want to be bothered with the man" as he was not satisfied about the way he had done some business, because Walker or somebody from his Office had negotiated some business, given certain instructions and then after Newbury had attended to the matter they heard no more about it and were not compensated for it.

I said I thought Walker was a serious man, that I thought the matter could be straightened out and that he was adopting a foolish attitude in not wanting to have any more to do with Walker and Newbury eventually asked me to see Walker and try to straighten it out.

A few days later I saw Walker in Copthall Avenue and told him what Newbury had told me.

Walker said he wanted to have no more to do with that particular business.

I had been interested for some time in South African Mining Properties and Walker asked me if I had any good South African Copper properties for sale on my books.

I said No, but I thought Newbury would have some for sale as he dealt in mining properties. Walker did not seem pleased but ultimately I said I would see Newbury and see if he had a good copper property for sale.

I saw Newbury that day or the next day and asked him if he had a good copper property for sale.

Newbury said he could get hold of the very property I wanted.

I then telephoned Walker that I had seen Newbury and could offer him a property and I saw him by appointment when he expressed approval and said he wanted to meet
379 Newbury and asked me to bring Newbury to an office in Cornhill occupied by Jackson & Co. I did so the same day or day after.

Walker asked Newbury about this Copper property and said he was thinking of having a Rhoedsian Company formed with a capital of £200,000 or £250,000.

They discussed the terms of purchase of the copper property, which was in Rhodesia. Walker mentioned the name "Vulcan Copper Mine."

Shortly after I saw Newbury again, he told me the Vulcan Copper Mines had some difficulty in getting their cheque for the working capital of the Company, that he was very perturbed about it as he wanted to see the Co. start off properly and he asked me to go over with him to 2 Broad St. Place. I did so and we saw Walker there. I asked Walker to let the Vulcan Co. have the cheque. He went outside
380 and came back in a few minutes with a cheque for £33,000. I think it is Ex. 60, dated 3rd July, payable to Vulcan Copper Mines. Walker handed me the cheque and later the same day I handed it to one of Newbury's clerks, by Newbury's directions.

I heard of the Rhodesia Border Mining Corporation Ltd. from Walker. He told me he was very satisfied with the property he had purchased from the Vulcan Co. and intended to buy another Rhodesian Copper proposition, and that he was purchasing it through Mr. Newbury and his friends. That would be about the end of July or beginning of August.

About this time there had been a dispute between me and Max Gershon (who had originally introduced me to Walker), about the Rhodesia Border Mining Corp. Arising out of that dispute Newbury spoke to me on the telephone and said it was very evident that through my disputing the com-

mission with Max Gershon and refusing to pay him a commission and otherwise I had spoilt the business in connection with the Rhodesia Border Mining Co. and that one of the cheques had been stopped.

Later at the end of July or early August, I was in the Park Lane Hotel. A friend, Mr. Epstein, came to me and as a result of my conversation, I was taken to the accused Elman at the hotel.

Elman said he had heard from Mr. Epstein that there was a dispute and that although he knew nothing of the business if I cared to engage him, Elman, in my private capacity, as he was Walker's lawyer, he would intercede on my behalf but that I would have to pay him, Elman, a substantial fee for doing this.

I agreed to the suggestion subject to my principals agreeing. A few days later Elman telephoned to me that he
381 had been successful in getting Walker to give a new cheque in the place of the one he stopped.

I told Elman the matter was with T. W. Webb & Co. and that the money was to be paid to them.

I received that information from Newbury.

Elman said: "Who are T. W. Webb & Co.?"

I told him I understood they were the agents for the Pretoria Co. who I understood were the vendors.

Elman said "Well you come up and see me and bring a director of T. W. Webb & Co. who can sign the necessary documents?"

On 21st August, 1930, I went with Mr. Brett, as representing T. W. Webb & Co. to Elman's office, 27, Lincoln's Inn Fields.

Before we went Newbury handed me some documents, Exs. 52, 53, 54 and I think Ex. 51 are the documents. I handed those documents to Mr. Brett.

At Elman's office Elman introduced me and Mr. Brett to a Mr. Arbeide. Elman then said "I am not quite satisfied about T. W. Webb & Co."

I assured him that Mr. Brett was a director of T. W. Webb & Co. and advised him to telephone them first if he was still doubtful. He telephoned but got no reply.

He was still dissatisfied and I told him to 'phone Mr. Newbury's office and said they would confirm that Brett was a director and authorised to sign.

I then used Elman's telephone and called Newbury and

handed the 'phone to Elman who asked Newbury if he could come up to Elman's office.

Elman then said Newbury said he was not feeling well and that Brett was fully authorized to complete the transaction.

Elman then seemed satisfied and asked Brett how he wanted the money.

I said: "Your cheque is good enough, but we'd rather have the cash."

Elman then wrote out a cheque for £33,000 and gave it to Brett to endorse, he then gave the cheque to Mr. Arbeide
382 and sent him to the bank to cash it and to bring back the money.

Brett then handed Elman the letter Ex. 54 and Elman then said to me: "I have nothing to do with the Pretoria Mining Estates Ltd. I made an arrangement with you personally as to my fee, also my Client's (Mr. Gershon) fee."

I replied: "By your rendering me a service you are rendering the Pretoria Mining Estates a service who are rendering T. W. Webb & Co. a service.

The clerk Arbeide had then come back with the money in Bank of England notes of large denomination and handed it to Elman.

Elman handed the money to Brett or to me. I counted the notes, to the amount of £33,000.

I handed back to Elman £4,000 in accordance with Ex. 53, and I gave the £29,000 to Brett, after the documents Exs. 51-55 had been exchanged. The receipt Ex. 55 was taken for the money.

Mr. Brett seemed nervous to pick up the money, so I picked it up and went with Brett to Newbury's office and there the £29,000 was handed to a clerk of Mr. Newbury's and I told Newbury the money had been handed over.

I received commission from Newbury for my services, a cheque for £2,000 in August, 1930.

I received £16,000 commission altogether in respect of the 2 matters, the Rhoedsia and the Vulcan matters.

Photograph No. 1 on Ex. 17 is that of a Mr. Green, whom I saw twice at the office of Broad St. Press. I saw
383 Spellen once there. I never saw the accused J. Wise there.

Cross-Examined for Elman:

Mr. Arbeide was present at the interview all the time except when he left with the cheque.

Brett endorsed the cheque. This is the cheque Ex. 179.

A previous cheque for £33,000 had not been met. Brett produced that cheque to Elman at that interview. It is produced Ex. 180 and Elman cancelled it at that interview.

Of the £4,000 kept by Elman, I understood that £2,000 was to go to Gershon and out of the other £2,000 Elman had to pay Mr. Epstein who had introduced the business, and to pay himself.

I met Gershon as I went out. He went in to see Elman. Later Gershon told me he had been paid his £2,000.

STANLEY GROVE SPIRO.

12th March, 1931. FREDERICK WILLIAM DUFFILL on 384 oath saith:—

I am Managing Director of F. W. Duffill & Co., Ltd. Stockbrokers, 120 Moorgate E. C.

In Jan., 1930, I was a director of British Investments Service (London) Ltd. 120 Moorgate. The Chairman of that Co. was Mr. W. H. Brett, National Provincial Bank Chambers, Lord St. Southport.

About Jan., 1930, I was at Southport with that Mr. Brett. I received a telephone call from Dickinson & Sidebotham, Stockbrokers of Old Broad St. and Mr. Brett and I in consequence came to London and went to Dickinson & Sidebotham's offices. I saw there Mr. Dickinson, Mr. Sidebotham and either on that or a subsequent occasion I was introduced to Mr. Klein, whose photograph is Ex. 16.

Klein said he wished to place West African Diamond Syndicate Ltd. shares with his country clientele. Those shares were quoted upon the London Stock Exchange and Klein asked me to negotiate the business with our Country connections, as the business was too large to handle entirely by the London Stock Exchange, by our introducing Klein to country brokers so that he could deal with them direct. After we examined the position of the West African Diamond Syndicate Ltd. Mr. Brett and I decided that we should introduce him to our country clients. When the introduction was about to take place Klein said the shares would be coming out of

the name of Mr. Elman, a Solicitor, who was his nominee, and in consequence we introduced Elman to our Country broker connection, among whom were Mr. Goulton Leonard of York, Messrs. T. L. Goulton of Grimsby and many others, about 150 stockbrokers in all.

After that introduction we received quite a lot of letters from our country clients.

I saw Klein again many times.

He told me he was progressing quite well in the sale of the West African Diamond Syndicate shares and had practically fixed up what he required.

I had never heard of the Sunbeam Presswork and Con-
385 veyors Ltd. at that time. I heard of it later from various country stockbrokers. I afterwards saw Klein and I told him the introductions seemed to be proceeding satisfactorily.

Later I told Klein that I did not like the Sunbeam Presswork Co. and I didn't like his action because he said he was going to do a deal in West African Diamond shares and had dealt in Sunbeam Presswork shares entirely without my knowledge.

To the best of my recollection he shrugged his shoulders and said: "Well, we couldn't do the West African Diamond shares."

If Klein had originally asked us to introduce him to our country clients in connection with Sunbeam Pressworks there would have been no introduction. Our introduction was a connection with West African Diamonds only and no other Company.

Cross-Examined:

I had no communication with Elman myself.

I don't know what the Sunbeam Presswork shares stood at. I did not know, but I do not doubt, that in Feb., 1930, they were quoted in the Financial Times Supplementary List at sums varying from 5/9d. to 6/-.

We never dealt in Sunbeam Presswork shares or instructed country brokers to sell those shares. I wrote to all our
386 brokers instructing them not to deal in them.

FREDERICK WILLIAM DUFFILL.

12th March, 1931. THOMAS GOULTON LEONARD on oath saith:—

I am a partner in Goulton & Leonard, Stockbrokers, 32 Coney St. York.

In Feb., 1930, I received a communication from Mr. Duffill and I then received this letter of 22nd Feb. signed
387 Elman Ex. 181 as to Sunbeam Presswork & Conveyors Ltd. shares.

On 24th Feb. one or two of my clients telephoned to me. I consulted Messrs. Nicholson & Sons, Stockbrokers of Sheffield, and then decided that I would have nothing to do with his order and I sent Elman a telegram to that effect and a letter in confirmation producted Ex. 182.

Considerably before that I executed orders from one or two clients for the purchase of Fisher's Foils shares.

THOMAS GOULTON LEONARD.

12th March, 1931. WILFRED JOHN KING on oath saith:—

I am Managing Clerk to Augustus Young, Stockbroker, Warneford Court, E. C.

I am responsible for the ledger work in that office.

In Nov., 1928, an account with Mr. Young was opened in the name of H. Wise. I never met Mr. H. Wise. I
388 afterwards met the man whose photograph is Ex. 20. I knew him as Guest.

I also met Klein—photograph Ex. 16.

On Guest's instructions we opened an account with Klein.

The account of H. Wise was in active operation for a few months from November, 1928.

The principal shares dealt in on that account were Victoria Gramophone & Aeonic Radio.

About March, 1930, an account was opened in the name of H. Guest.

I produce true copies of his account (Ex. 184), the accounts were kept by me in my handwriting and can be produced.

An account in the name of A. J. Klein was opened about the same time. The original entries are in my handwriting. I produce a true copy of the account Ex. 185. That account was only operated for one month, April, 1930.

Sometime at the beginning of March, 1930, I saw Guest, who told me that A. J. Klein was commencing business as an outside broker and that instructions given to me by Guest were to be booked in the name of Klein and all correspondence sent to Klein's office at 42, Cornhill.

About April, 1930, an account was opened in the name of Broad St. Press Ltd. on Guest's instructions. The account continued up to October, 1930. The account was kept by me. I produce a true copy of the account Ex. 186.

Those 3 accounts all relate to securities which were quoted upon the Stock Exchange.

389. Between April and Oct., 1930, considerable business was transacted between Mr. Young and Broad St. Press Ltd. both in regard to the purchase and sale of quoted securities.

In respect of securities sent to us for sale on the Broad St. Press account our orders came from Guest, and we received the necessary documents from Guest.

I produce a number of letters received by me from 42 Cornhill enclosing certificates for sale. Ex. 187.

Those shares were all sold on Klein's account in our books and the proceeds of these sales were sent to A. J. Klein at 42 Cornhill.

In Ex. 187 is a letter dated 15th April, 1930, enclosing certificate for £300 Great Western Railway ordinary shares in the name of John Tucker and another, and 20 ordinary shares in Welsh Associated Collieries, and 10 7½% preference shares in the same Company, also in the same names.

18 March, 1931. Recalled:

I produce my firm's cheque of 29th Apl. 1930 to A. J. Klein for £6,097.4.11. Ex. 188 covering the proceeds of the £300 G. W. R. Stock mentioned at the end of my evidence of the 12th instant.

I have not been able to trace the sale of the Welsh Associated Colliery shares. In the normal course of business, if we had not been able to sell those shares, we should have returned the certificate to Klein in March, 1930.

Produced Ex. 189 is a Schedule of payments made by cheque by H. Wise to my firm between Jan. and Oct. 1930.

Produced are the cheques Ex. 190 for all except the last 2 items on Ex. 189.

In the schedule Ex. 189 are a number of purchases of Phantestic shares, and beginning with 24th July, 1930 390 is a number of items, 5% War Loan, down to 28th August 1930, total stock purchased £200,000. Those are shewn in our books as purchased on the instructions of H. Guest. I received instructions from Guest to take those bonds round to him at 2, Broad St. Buildings and I did so on each occasion.

Ultimately he instructed me to get bonds in larger denomination than those I originally took round to him and to send them to a bank in Chicago and I sent them to the Foreman, State National Bank, Chicago, To the credit of Mrs. Louis Cohen of Chicago. I produce the acknowledgment of that bank Ex. 191. We communicated with Mrs. Louis Cohen and received her acknowledgment produced Ex. 192.

As to the last 2 items on Ex. 189, these are the 2 cheques relating to those 2 items, Ex. 193. Klein said he wanted the account of Broad St. Press settled up and those 2 cheques balanced the account.

At that time there was some outstanding stock, and then to finally balance the account we sent our cheques to Broad St. Press for the same amounts as Ex. 193 produced Ex. 194.

During the same period as dealt with in Ex. 189 we also bought and sold shares for Guest in the Radio Corporation of America.

On 26th June we drew our cheque for £39,643 produced Ex. 195 in favour of H. Geen, on Guest's instructions. I handed that cheque to Guest. It represented a payment to Guest for the sale of 4,500 shares in Radio Corporation of America, which had been previously purchased by us for Guest between 9th and 20th May 1930.

I saw the man whose photograph is No. (1) on Ex. 17 at the offices of Broad St. Press, 2 Broad St. Buildings. 391 I knew him as Mr. Green.

I produce a list of securities sold by my firm for Broad St. Press on instructions of Guest, Ex. 196.

It shows 3 securities which were bearer bonds, and 12 securities which were transferred out of the name of W. J. Jose.

Those securities were received by us about 8th August.

Generally securities were either handed by Guest to me

or sent to me by him. I would sign or intial a book, the securities book of Broad St. Press, Ex. 197.

The proceeds of the sale of those securities in the name of Jose were paid by us by cheque to the order of Broad St. Press Ltd.

WILFRED JOHN KING.

392 18th March, 1931. AUGUSTUS YOUNG on oath saith:—

I am a Stockbroker and principal of Augustus Young, Stockbrokers of Warneford Court, E. C.

I first met the man whose photograph is Ex. 20, in, I think, 1928. I knew him as H. Wise. He was introduced by Mr. A. C. Bowles. I understood H. Wise was a financier.

He told me he would be having quite a lot of business on the London Stock Exchange and would give me a share of that business.

From Nov. 1928 to June 1929 we transacted business for H. Wise in respect of the sale and purchase of shares in Victoria Gramophones, Aeonic Radio Corporation Ltd. and various other companies.

About March 1930 Wise told me that for business reasons he had changed his name to Guest.

A little later on instructions received by my clerk contracts were made out in the name of A. J. Klein of 42, Cornhill, until 17th April.

I understood that A. J. Klein was commencing business as an outside broker.

On 17th April Guest gave instructions that transactions were to be carried out in the name of Broad St. Press Ltd. I have never heard of that Co. before.

From that time we had a large amount of business with Broad St. Press, which my Clerk the witness King, dealt with.

About 3rd October 1930 in consequence of a statement I saw in the press I declined to transact any more business with them.

AUGUSTUS YOUNG.

393 18th March, 1931. WILLIAM HAROLD BRETT on Oath saith:—

I am a Stockbroker at National Provincial Bank Chambers, Lord St. Southport.

I am a Director of the British Investments Service (London) Ltd. and was so in Jan. 1930.

For some considerable time that Co. has been doing business with Dickinson & Sidebotham, members of the London Stock Exchange and the Co. was indebted to them to the extent of a few hundred pounds.

On or about 17th Jan. 1930 I received a telephone message from Mr. Eric Dickinson, a partner in that firm and in consequence I came to London about 18th Jan. The next day, with Mr. Duffill, my co-director, I attended a meeting at that firm's offices.

Mr. Eric Dickinson, Mr. Russell Sidebotham, a representative of Eastrell & Co. Stockbrokers and A J. Klein, were also present.

Ex. 16 is Klein's photograph.

Dickinson introduced Klein to me, saying that Klein had a deal in shares in the West African Diamond Syndicate, in which he said we might be interested.

I asked Klein and the others present a great many questions about the West African Co. and satisfied myself that although speculative the shares were reputable. The price was as near as I remember, 4/-.

Klein was there the whole time, definitely taking part in the discussion.

It was proposed to me that without any recommendation on my part I should put Klein in direct touch with a number of provincial brokers, friends of mine, that he—Klein—would offer them business in West African Diamond shares which they could either accept or refuse.

After discussion I agreed to do that, for which my Company were to be renumerated.

I afterwards gave about 3 introductions to friends in and around Southport. Apart from that Mr. Duffill dealt with the whole of the matter after that.

394 The only shares to which our introductions were to relate were the West African shares.

We received inquiries and complaints from provincial brokers to whom we had introduced Klein.

I have never, directly or indirectly, dealt in shares of Sunbeam Pressswork & Conveyors Ltd. and have never written or circularised anyone with regard to that Company.

Klein's was the only name mentioned as that of a principal in connection with the deal. No other name but Klein's was mentioned.

After the meeting I returned to Southport.

Mr. Duffill remained in London.

WILLIAM HAROLD HARRY.

345 18th March, 1931. RUSSELL SUMMERTHAM on Oath saith:

I am a partner in the firm of Dickinson & Sidebotham, 250 Gresham House E. C. and a member of the London Stock Exchange.

In Nov. 1928 I was introduced to A. J. Klein, whose photograph is Ex. 16 by Mr. Hohne, Secretary of the Mincing Lane and General Trust, in connection with the issue of Acoustic Radio Ltd. in which my firm acted as brokers.

I understood that Klein, either by himself or with others, was a very large share holder. He was introduced as the man from whom we should take our instructions as to market dealings in the shares.

We took up the references furnished by Klein, one of them was the North of Scotland Bank, Lothbury.

I told Klein that the Stock Exchange Committee required an assurance by us that the Vendor and option shares in the issue of Acoustic Radio Ltd. would be distributed. Klein then handed me this letter, Ex. 198 signed H. Wise.

On Klein's inquiry I told him an irrevocable guarantee from the North of Scotland Bank would be required and the sum was fixed at £20,000 and subsequently increased to £40,000, as to which we received this letter from the Bank Ex. 199.

On the back of Ex. 199 are notes of payments from the Bank against delivery of the shares.

Dealings began on 30th November and continued as shown in this statement Ex. 200.

On 31st Jan. 1929 we acted as brokers for Fisher's Foils Ltd. and we obtained permission from the Stock Exchange

Committee for dealings to take place in Fisher's Folls. Ex. 200 shews our dealings in them.

We also carried out a few transactions in Victoria Gramophones Ltd. also shewn in Ex. 200.

Our account with H. Wise was closed in the Spring of 1929. The account was with H. Wise. I understood Klein was H. Wise's Attorney, that he had a complete power of attorney over H. Wise's account.

390 On the account the guarantee of £40,000 was exhausted, shares were bought practically to the amount of the £40,000.

Early in 1930 Klein asked us if we could obtain a line of shares for him in a reputable mining Company.

My friends, Eastrall & Co. had a "line" of shares in West African Diamond Syndicate for disposal. I told Klein of that. I think the "line" was something like a 100,000 shares.

Klein asked us if we knew any organization with a connection among provincial brokers for the purpose of dealing in those shares.

Court:

When Klein made that inquiry he had not yet purchased the West African shares. He was making arrangements for the sale of the shares before he had bought them.

Further Examined:

I introduced Klein to Mr. Duffill and Mr. Brett.

We were not able to purchase the West African Diamond shares.

I had nothing more to do with the matter. It was understood that if any business eventuated British Investments Service (London) Ltd. would reimburse us the sum they then owed us out of any remuneration they received.

In due course we received this cheque for £500 Ex. 201 signed "pp. H. Wise, Arthur J. Klein," out of which we retained the sum which British Investments Service Ltd. owed us, and we paid the balance to Mr. Duffill.

Cross-Examined for Spellen:

In Jan. 1930 Klein asked us if we could introduce him to a reputable line of mining shares and we introduced him
397 to Messrs. Eastrell.

He also asked us to introduce him to a firm who could introduce him to firms of provincial brokers and we introduced him to British Investments Service Ltd.

The sale by Eastrell to Klein did not materialise.

That is the whole transaction.

Cross-Examined for Kleinman:

Klein did a very extensive stock exchange business.

I knew Klein was proposing to buy mining shares in order to sell them.

When Klein asked if we knew any organization with a connection among provincial brokers he might have been intending to sell shares other than the West African Diamond shares.

Klein did not say he wanted the provincial brokers solely for the West African Diamond share. He did say he wanted them for West African shares.

At the meeting on 19th Jan. no other name was mentioned except Klein's.

RUSSELL SUDBOTHAM.

398 18th March, 1931. ERNEST FRANK WEST on Oath saith:—

I live at 13, Southcroft Rd. Tooting.

I am a Stockbroker's Clerk.

On 1st March 1930 I answered an advertisement in the Financial Times for a Clerk and received a letter about 5th March and in consequence I called at 14, Copthall Avenue the next day and saw there the accused Spellen.

Later I received from him a letter engaging me, at £4.10.0 a week.

My duties were to be work in connection with the Stock and Share department of Broad St. Press Ltd.

I think I started work on 8th March, at 14, Copthall Avenue, and I worked there about 4 weeks.

Broad St. Press occupied, I think, the whole of the first floor there.

I worked directly under Green and Spellen.

Ex. 20 is a photograph of H. Guest.

Guest, Green and Spellen were frequently at those offices.

My duties consisted mainly of making out contract notes for sale to Clients of Asbestos & Holdings Trust Ltd. shares and keeping records in connection with such sales.

I did not haggle money.

I knew nothing about the shares, or where they came from.

Typists prepared the nomination lists from particulars in correspondence files.

The nomination lists when prepared went to Guest and then to the Office of the Asbestos Co. where the share certificates were prepared.

Broad St. Press forwarded the certificates to clients. I did that on Guest's instructions.

About the end of March the whole staff removed to 42, Cornhill, where Broad St. Press occupied the 2nd and 3rd floors. The reason for the removal was the expiry of the lease.

The personnel at 42, Cornhill was the same, Spellen, Green and Guest.

They occupied a large room on the 2nd floor together. Space was very limited.

At 14, Copthall Avenue Green and Guest had had one room, and Spellen another.

Ex. 16 is a photograph of Klein. I saw him at 42, Cornhill, rather infrequently.

At 42, Cornhill my work continued much the same as at Copthall Avenue, and I also took over the preparation 399 of contract notes as to sale and purchase of marketable securities on behalf of clients.

I kept the account of Augustus Young.

I also kept the clients ledger.

The proceeds of the sale of clients securities were to a large extent reinvested in Asbestos shares.

On 22nd April the whole staff removed to 2, Broad St. Buildings.

When I prepared contract notes for sale of Clients securities my instructions came to me directly or indirectly from Guest.

These are the books from which I got the details, Ex. 81. They are in Spellen's writing. They are merely record books.

At 14, Copthall Avenue the name of the United Overseas Trust was up on the door. At 42, Cornhill there was no name up. At 2, Broad St. Buildings Broad St. Press 400 occupied part of the first floor and the whole of the second floor.

My duties there included conducting correspondence with clients of the Broad St. Press.

Letters written by me bore my initials "E. W." or "W." then a stroke followed by the typist's initials.

I was then in charge of the stock and share department, which consisted of myself and a man Decker, and Shortland assisted as office boy.

About June 1930 the volume of work became too great and 3 further clerks were engaged and they kept the books I had formerly kept.

By June the sale of Asbestos shares had practically ceased, and Vulcan Copper shares were being sold by Broad St. Press Ltd.

Subscribers were then advised by Broad St. Press to buy Edison Bell shares at 14/- with a view to profit-taking.

The records of the Co. at that time did not show that the Co. had bought Edison Bell shares.

When clients bought Edison Bell shares they were sent prepaid telegrams advising them to sell Edison Bell shares at 23 -, the telegrams said: "Advise sell Edison Bell now 23 - and reinvest in Vulcan Copper Mines now 10/-."

Edison Bell shares had at that time been quoted at 22/6d.

In some isolated cases probably letters were sent to clients advising them to sell Edison Bells, but generally telegrams were sent.

Some clients instructed Broad St. Press to sell Edison Bells, but not to reinvest. In such cases their instructions were carried out and clients received their profit.

Some clients asked for delivery of the Edison Bell shares.

In such cases there was delay in delivery, the reason being that the Co. had no shares to deliver.

When the Co. got the shares I obtained the transfer deeds from Guest, transferring the shares into the name of Frank Jackson, of, I think, 92 Bedford Court Mansions. I
401 don't know who he was. Spellen lived at 92, Bedford Court Mansions. Thousands of Edison Bell shares were so transferred to Frank Jackson.

It was my duty to lodge the deeds with the Edison Bell Co. and to make out transfers from Frank Jackson to the Company's clients and I handed the transfers when made out to Guest. When they were returned to me they bore the signature "Frank Jackson." I never compared any of those signatures with Spellen's signature.

The certified transfers were then delivered to the clients.

When the Clients agreed to reinvest in Vulcans I received the letter from the client with the client's correspondence folder, from Guest; the file contained the counterfoil of the contract of the client when he purchased the shares and I prepared the sale contract note from that bought contract note. I then ascertained from the folder if the client had paid for the original purchase and if so the whole of the proceeds were reinvested in Vulcans.

Entries in the ledgers were made from the contract counterfoil and the particulars in the folders.

The proceeds were reinvested in round figures, sometimes leaving a small balance.

During the first week or two of the sales of Vulcans nomination lists were compiled by typists from the clients correspondence folders.

Later they were prepared from clients ledges by bookkeepers.

If they were prepared by typists they were handed to Guest. When by bookkeepers they were sent round by
402 me to 15 Copthall Avenue on Guest's instructions.

Guest kept duplicates of the list.

The Vulcan certificates were brought to our office by a messenger from the Vulcan Co.

Later Guy Motor Shares were recommended by Broad St. Press to clients immediately following the Edison Bell shares, about the beginning of July, the procedure was the same and clients were advised to reinvest in Vulcan.

Generally speaking the recommendation to buy Guy Motors was not made to clients who had sold Edison Bells and reinvested in Vulcan Copper Shares.

Some Guy Motor shares were purchased by the Co. from Gordon Hensler & Co. in the name of A. J. Klein. The transfers were in the name of Frank Jackson.

None of the securities received from clients were sold through Gordon Tensler. Most of the clients who bought Guy Motors paid cash.

The next recommendation was Swears & Wells shares.

Guest told me that Braid St. Press would be taking delivery of Swears & Wells shares in my name as their nominee. The shares came, as to some of them, from Ashford & Co.

Transfers into my name were received in batches.

A. J. Klein bought the shares.

The same procedure was followed as in the other shares, but clients were advised to reinvest in Rhodesia Border Mining Corpn. Ltd.

Not all the Swears & Wells shares in my name were transferred to clients. About 3,000 remained. I effected a 403 blank transfer of those 3,000 shares on Guest's instructions and I handed the blank transfer to, I think; Spellen.

The next special recommendation was Triplex Safety Glass Co. Ltd.

The procedure was altered, clients were communicated with by telephone instead of by telegram or letter, otherwise the procedure was the same as before, and clients were advised to reinvest in Rhodesia Border Mining shares.

The Triplex shares were sold to clients at about 25/-, and repurchased at 35/- in most cases.

The Co. did not buy any Triplex shares in the market, so far as I know. If they had bought any I should know.

I spoke to Green about that. He said he would speak to Guest about it and said we would be having shares. No shares were forthcoming. People pressed for delivery and some commenced proceedings. Reid Sharman & Co. acted for Broad St. Press in such proceedings. As far as I know the Co. did not deliver any Triplex shares.

By Court:

About 10 days or a fortnight would elapse between clients being asked to buy and then sell their Triplex shares.

Further Examined:

The next recommendation was of Godfrey Phillips shares, the procedure was similar.

At the end of September, Guest told me that an amalgamation had been arranged between the Vulcan and the Rhodesia Companies and said that I could pass that information on to clients.

Guest obtained from bookkeepers the names of some of the clients who had purchased Vulcans and at that time had not received certificates, and instead of receiving Vulcan certificates, certificates for shares in the Rhodesia Co. were sent to them.

Vulcan & Rhodesia shares were only bought on the instructions of clients.

On 13th Sept. I went on holiday and returned on 22nd Sept. Guest was there then. The last I saw of him was 404 on Thursday following, on Sept. 25th at the office.

I did not know he was going.

I saw Green after that. He never gave any reason for Guest's departure.

After Guest had gone I could only get instructions to a much less extent than before. Spellen was still there. I took my instructions from Green. I saw a Mr. Trainer at the offices after Guest's departure, and he dispensed with my services, on 24th Oct. Green had ceased to come to the office before I left. I can't say if he ceased to come before Trainer arrived. I think I saw Green last on 10th Oct.

I did not see Guest or Green again.

I left the office finally on 29th October.

About June or July 1930 some Fisher's Foils shares were purchased, I think, by A. J. Klein. I held over 50,000 as nominee of Broad St. Press Ltd. I did not know why they stood in my name.

Between July and Sept. 1930 some clients gave instructions to purchase Fisher's Foils. Those orders were not executed through Augustus Young. The shares were delivered out of my name.

I have seen the accused J. Wise at 42, Cornhill, and 2, Broad St. Buildings seldom. I don't know what he called for. 405 He spoke to H. Guest on one occasion. I did not see him speak to anyone on the other occasion. I saw him going upstairs as I went down.

The registered offices of Broad St. Press were at 27 Lincoln's Inn Fields. I never saw Elman. I heard of him I heard his name mentioned by Green and Guest, only in snatches of conversation as I passed.

Cross-Examined for Spellen:

The principals at Copthall Avenue and the other 2 addresses were Guest and Green, and I got my instructions from them.

I did not receive instructions from Spellen, but I received instructions from Guest through Spellen.

Except at Cornhill, Spellen occupied a different room to Guest and Green. Apart from his being my superior in the office, he was, like myself, a servant of Broad St. Press.

Spellen interviewed me. I told him my qualifications, he did not then and there engage me. He said they had had a number of applications which would have to be considered.

Edison Bell, Guy Motors, Swears & Wells and Triplex Glass were all shares quoted on the Stock Exchange, and their prices could be seen by anyone reading the daily papers. Clients were advised to buy those shares for a rise, not for investment. Frequently in those circumstances people don't take delivery, if bought for an immediate rise it would be unusual to take delivery.

Shares which the Co. acquired were put into the names of nominees. They acquired a quantity of Guy Motors, Swears & Wells and Edison Bells.

They put the Guy Motors into the name of F. Jackson as their nominee and Swears & Wells into my name, solely
406 as nominee of the Co. That is quite a common practice on the Stock Exchange. If clients wanted to take up the shares they were transferred from the nominee and the Clients name. There is nothing uncommon about that.

I know nothing of Guest's movements since I last saw him at the office.

ERNEST FRANK WEST.

407 18th March, 1931. THOMAS HARVEY ACKLAN on Oath saith:—

I am a Student and live at Caprera, Ashtead, Surrey.

From April 1928—April 1930, I was employed by British Investment Services, Ltd. at 120 Moorgate as a Clerk,
407 under the direct supervision of Mr. Duffill, Director, and I dealt with the correspondence.

These three copies of letters of 17th 20th and 21st Feb. 1930 are copies of letters (dictated by me) which we sent to Elman of 27, Lincoln's Inn Fields, Ex. 202.

THOMAS HARVEY ACKLAN.

408 EXHIBIT No. 51.

11th August 1930.

H. Wise Esq.,
2, Broad Street Buildings,
E. C. 2.

Dear Sir,

We hereby sell to you the rights to an allotment of 1,176,000 shares of 10/- each fully paid in the Rhodesia Border Mining Corporation Limited for the sum of Thirty three thousand pounds (£33,000) delivery of the said shares can be effected by nomination letter which we undertake to forward to the said Company who will allot these shares to you.

The receipt of the above mentioned sum by cheque of this date is duly acknowledged.

Yours faithfully,
T. W. WEBB & Co. LTD.
Director.

P.S. Formal Contract is enclosed herewith.

409 EXHIBIT No. 51 (continued.)

Contract Note. No.

T. W. WEBB & CO. LTD.
5, Moorgate Buildings, E. C. 2.

11th Aug. 1930.

Sold Rights to an Allotment of 1,176,000 shares of Rhodesia Border Mining Corporation Ltd. fully paid @

Amount	£33,000. 0. 0.
Transfer Stamp	
Registration Fee	
Contract Stamp paid	1. 14. 0.
Total Amount	£33,000. 0. 0.
For Settlement	Cash a/c.

Name H. WISE,
Address 2, Broad St. Buildings,
E. C.

410 EXHIBIT No. 52.

PRETORIA MINING ESTATES COMPANY LIMITED.

5 Court Row,
Guernsey.
21st August, 1930.

Inland Telegrams:
"Enterprise, Guernsey."
Messrs. T. W. Webb & Co. Ltd.
5, Moorgate Buildings,
E. C. 2.

Dear Sirs,

Re The Rhodesia Border Mining Corpn. Ltd.

With reference to the Contract for the sale of the shares in above-named Company for the sum of £33,000 we hereby instruct you to deduct the sum of £4000 from this amount and to sign the Commission letter addressed to Mr. Burnett L. Elman, paying to him the said sum of £4000.

Yours faithfully,
(Sgd.) F. NEWBERY,
Director.

411 EXHIBIT No. 53.

5, Moorgate Buildings,
E. C. 2.
August 21st, 1930.

Dear Sir,

In consideration of your completing the deal relating to Rhodesia Border Mining Corporation Limited today we undertake to deliver the shares referred to in our contract of the 11th inst. and the letter of the same date written by us to you as and when called upon so to do.

Yours faithfully,
For and on behalf of
T. W. WEBB & CO. LTD.
(Sgd.) R. H. BRETT
Director.

H. WISE Esq.

412 EXHIBIT No. 54.

21st August, 1930.

Burnett L. Elman Esq.
Solicitor.
27, Lincoln's Inn Fields,
W. C. 2.

Dear Sir,

According to the instructions received from our principals, the Pretoria Mining Estates Co. Ltd., in consideration of services rendered by you and your Associates to them and to us in connection with the Rhodesia Border Mining Corporation Limited, we hereby undertake and agree to pay you the sum of Four thousand pounds (£4000) in full discharge by way of remuneration for such services.

Yours faithfully,
T. W. WEBB & Co. LTD.
Director.

413 EXHIBIT No. 55.

Burnett L. Elman,
Solicitor.

27, Lincoln's Inn Fields,
London, W. C. 2

Telephones: Holborn (6555
(6556
(5050

August 21st, 1930.

Received from Messrs. T. W. Webb & Co. Ltd. the sum of Four thousand pounds in settlement of the amount due as per your letter of even date in relation to Rhodesia Border Mining Corporation Limited.

(Sgd) BURNETT L. ELMAN
2d stamp.

414 EXHIBIT 60.

c/16
R3/L.01656. London, July 3rd, 1930.

MIDLAND BANK LIMITED

formerly

LONDON JOINT CITY & MIDLAND BANK LIMITED
Gray's Inn Branch, 49, High Holborn, W. C. 1.

(Stamp 2d)

Pay The Vulcan Copper Mines Ltd. or Order
Thirty three Thousand Pounds
For and on behalf of

£33,000.0.0.

BROAD STREET PRESS LTD.
(Sgd) A. PARIS
" ALBERT S. J. OSBORN } Directors.

Crossed & Co.

Stamped: Barclays Bank (Dominion Colonial and Overseas National Bank) South Africa Branch.

PAID—7 July 1930.

Endorsed: Vulcan Copper Mines Limited.
(Sgd) Alfred H. Bonnard,
Director.

415 **Exhibit 148.**

No. P. 23925: 7592.

London June 26th 1930.

MESSRS. BROWN SHIPLEY & CO.
Founders Court, Lothbury, E. C. 2. Stamp 2d.

Pay to T. W. Webb & Co or Order
the sum of Two thousand and thirty pounds.
£2030. Arthur Klein.

Crossed: & Co.

Rubber Stamp: Midland Bank Limited
Electra House, 92 Moorgate, E. C. 2.

Perforation: Paid
26. 6. 30

Endorsed: T. W. Webb & Co.
R. H. Brett
Director.

416 **Exhibit 149.**

T. W. WEBB & COMPANY LTD.

533. AB/8.
30/6/1930.

MIDLAND BANK LIMITED
Electra House, 92 Moorgate, E. C. 2.

2d. Stamp.

Pay Cash or Order
Two thousand & thirty pounds
For and on behalf of T. W. Webb & Co. Ltd.
£2030. 0. 0.

R. H. Brett
A. J. Smith } Directors

Crossed: & Co.

Rubber Stamps: BARCLAYS BANK LIMITED
(T1) Basinghall Street (T1)
PAID
30 Jun. 1930.

417 Exhibit 150.

BROAD STREET PRESS LIMITED E/8

G. 13403. May 24th 1930.

MIDLAND BANK LIMITED
Gray's Inn Branch, 49 High Holborn W. C. 1 Stamp 2d

Pay J. Green Esq or Order
Seven Hundred & Fifty one pounds 2/6
£751. 2. 6. For and on behalf of
Broad Street Press Limited
A. Paris
Albert S. J. Osborn } Directors

Crossed: & Co.

Rubber Stamps: Westminster Bank Limited
Lothbury
a/c Brown Shipley & Co.
Paid
28 May 1930.

Endorsed: J. Green.

418 Exhibit 151.

R T. 2.
No. W 266419 London E. C. 2. March 31st 1930.

BARCLAYS BANK LIMITED
232-8 Bishopsgate, E. C. 2. Stamp 2d.

Pay Cash or Order
Four thousand six hundred & twenty five puds.
BROAD STREET PRESS LTD.
£4625.0.0.

Albert S. J. Osborn } Directors
A. Paris

Crossed:

Rubber Stamps: National Provincial
Bank Limited
30 Cheapside, London, E. C. 2.
BARCLAYS BANK LIMITED
Paid 1 Apr. 1930.

419 Exhibit No. 152.

R 211

No. W 414808. London Sept. 30th 1930
E. C. 2

BARCLAYS BANK LIMITED
232-8, Bishopsgate, E. C. 2. Stamp 2d.

Pay B. Smith Esq. or Order
Eight Hundred & Eighty Pounds 10/-.
£880. 10. 0. BROAD STREET PRESS LIMITED
A. Paris
Albert S. J. Osborn } Directors

Crossed: & Co.

Rubber Stamps: Midland Bank Limited
Coleman Street and Moorgate E. C. 2.
Cleared through H. O.

MIDLAND BANK LIMITED
Coleman Street and Moorgate E. C. 2.
a/c North of Scotland Bank Ltd.
Lothbury, E. C. 2.

BARCLAYS BANK LIMITED
Paid 1 Oct 1930.

Endorsed: B. Smith.

420 EXHIBIT 153.

R 211.
No. W 414845 London E. C. 2. 6.10.1930.

BARCLAYS BANK LIMITED
232-8, Bishopsgate, E. C. 2. Stamp 2d.

Pay Cash or Order
Seven hundred & fifty pounds only
£750 BROAD STREET PRESS LTD.
A. PARIS
ALBERT S. J. OSBORN } Directors

Crossed: & Co.

Rubber Stamps: Midland Bank Limited
Coleman Street & Moorgate E. C. 2.
Cleared through H. O.
Midland Bank Limited
Coleman Street and Moorgate E. C. 2.
A/c North of Scotland Bank Ltd
Lothbury, E. C. 2.
Barclays Bank Limited
Paid 8 Oct. 1930.

421 EXHIBIT No. 154.

R 211.
No. W 414836 London E. C. 2. 3 Oct. 1930.

BARCLAYS BANK LIMITED
232-8, Bishopsgate, E. C. 2. Stamp 2d.

Pay General Mining Corporation Ltd. or Order
One thousand pounds only.
£1000 Broad Street Press Ltd
A. PARIS
ALBERT S. J. OSBORN } Directors

Crossed: & Co.

Rubber Stamps: Barclays Bank Limited
(T1) Basinghall Street (T1)
Barclays Bank Limited
Paid 6 Oct. 1930.

Endorsed: General Mining Corporation Ltd.
F. Newbery
Director.

422 EXHIBIT 155.

LIMITED LIABILITIES LAWS OF SOUTHERN RHODESIA.

SPECIAL RESOLUTIONS

No. 342 of

THE VULCAN COPPER MINES LIMITED

(Incorporated in Southern Rhodesia).

Passed the 12th day of June 1930.

Confirmed the 27th day of June 1930.

At an extraordinary General Meeting of the Members of the said Company, duly convened and held at 80 Coleman Street E. C. in the City of London, on the 12th day of June 1930, the following Special Resolutions were duly passed: and at a subsequent Extraordinary General Meeting of the said Company, also duly convened and held at 80, Coleman Street E. C. in the City of London, on the 27th day of June, 1930, the following Special Resolutions were duly confirmed:—

RESOLUTIONS.

Resolved that the Memorandum of the Company be and it is hereby altered as follows by adding to the end of Memorandum No. 5 viz:—

"And may in General Meeting specially convened for that purpose increase the Capital to any amount as may from time to time be deemed expedient by the creation of new shares."

Resolved that the Articles of Association of the Company be altered as regards Article No. 10 by adding to the end of such Article the following words, viz:—

"And may in General Meeting specially convened for that purpose increase the Capital to any amount as may from time to time be deemed expedient by the creation of new shares."

Resolved that the Capital of the Company be increased to Six Hundred Thousand Pounds and divided into One Million Two Hundred thousand shares of 10/- each and by the

creation of 800,000 additional shares of Ten Shillings each to rank equally in all respects with the existing Ten shilling shares of the Company.

A. P. SPRANGE,
Chairman.

423 Ex. 155 Contd.

Registered this 18th
day of July, 1930.
2

243 R. A. Ag Registrar

342

Stamp 1

I, Henry Alfred Woodbridge, of the City of London, Notary Public, duly admitted and sworn, practicing in the said City

DO HEREBY CERTIFY AND ATTEST

That the signature set and subscribed at foot of the Special Resolution on the other side hereof passed by the Members of The Vulcan Copper Mines Limited at a meeting held in this City, on the 12th day of June 1930, is the authentic signature of Alfred Percy Sprange, the Chairman of the said Company in London and the Chairman of the Meeting at which the said Resolutions were passed, and the said signature was so set and subscribed by him this day in my presence.

In Witness Whereof I have hereunto set my hand and affixed my Seal of Office in the City of London aforesaid, this twenty seventh day of June One thousand nine hundred and thirty.

(Sgd) H. A. WOODBRIDGE,
Not. Pub.

(SEAL).

Henry Alfred Woodbridge.
Not. Pub. London.

424 Exhibit 156.

PRIVATE

16th September, 1930.

Dear Mr. Newbery,

I have to inform you that Inspector Wiltshire with another Officer from Rochester Row attended here yesterday to make enquiries concerning the Yulean Copper Company, on complaints which have apparently been made to Scotland Yard, as to the method by which the shares of this concern are being brought to the notice of the Public.

Having been a Chartered Secretary since 1903 and having recently been elected to the Board of the North Kent Coal field Ltd., you will appreciate, I feel sure, that I am much disturbed in mind as to receiving such a visit and the cause of it and the effect it might have on my professional reputation, and shall be glad to know if the Directors intend to take steps to satisfy the authorities as to the bona fides of the Company and those connected with it?

Yours faithfully,

(Sgd) Arthur J. Arms.

F. Newbery Esq.,
15, Copthall Avenue,
London, E. C. 2.

425 Exhibit 157.

3rd July 30.

The Brond Street Press Limited,
2, Brond Street Buildings,
E. C. 2.

Dear Sirs,

We beg to acknowledge receipt from you of your letters of today's date enclosing cheque for £33,000 for 66000 shares of 10/- each paid for in full with instructions and that you will forward the names of your nominees to receive the further allotments of these shares.

The payment of the commission of £3300 will be sent to you in a few day's time.

Yours faithfully,

Vulcan Copper Mines Limited,
London Secretary.

426 EXHIBIT 157 Contd.

4th July 30

The Broad Street Press Limited,
2, Broad Street Buildings,
E. C. 2.

Dear Sirs,

As set out in your nomination list requesting the allotment of 153750 fully paid Vendor Shares in this Company we now hand you in respect thereof 656 Certificates for Shares duly allotted Nos.

61 to 81	400 to 413
83 to 216	422 to 469
219 to 236	471 to 514
238 to 247	516 to 527
249 to 253	529 to 541
255 to 260	543 to 583
262 to 284	584 to 607
286 to 339	608 to 702
341 to 363	704 to 733
365 to 372	735 to 750
374 to 390	

representing 153750 Shares of 10/- each.

Yours faithfully
For & on behalf of the Vulcan Copper Mines Ltd.,
London Secretary.

427 EXHIBIT 157 Contd.

4th July 30

The Broad Street Press Limited,
2, Broad Street Buildings,
E. C. 2.

Dear Sirs,

As set out in your letter of 2nd inst., we now hand you 16 Share Certificates Nos. 391-399, 414-420 for the allotment of 16315 cash shares as requested.

Yours faithfully,
For and on behalf of the Vulcan Copper Mines, Ltd.,
London Secretary.

428 EXHIBIT 157 Contd.

The Vulcan Copper Mines Limited,
(Registered in Southern Rhodesia)

25 Victoria Street
London, S. W. 1.

Telephone No. 1530 Victoria

Directors:
A. P. Sprange,
A. H. Bonnard,
A. Fraser
S. A. Redrup.

7th July, 1930.

The Broad Street Press Limited,
2, Broad Street Buildings,
E. C. 2.

Dear Sirs,

As set out in your nomination lists requesting the allotment of 11050 fully paid Vendor Shares in this Company now hand you in respect thereof ..... Shares Certificates Nos.

751 to 788
790 to 796
798 to 823

representing 11050 shares of 10/- each.

Yours faithfully,

For & on behalf of The Vulcan Copper Mines Ltd.,
London Secretary.

429 Exhibit 157 Contd.

The Vulcan Copper Mines Limited
(Registered in Southern Rhodesia)

25, Victoria Street,
London, S. W. 1.

Directors &c., &c.,

9th July, 1930.

Broad Street Press Limited.

Dear Sirs,

We now enclose cheque for £3300 in payment of commission as agreed in our letter of the 30th ult., Please acknowledge and oblige,

Yours faithfully,

London Secretary.

430 Exhibit 157 Contd.

The Vulcan Copper Mines Limited
(Registered in Southern Rhodesia)

25, Victoria Street,
London, S. W. 1.

23rd July, 1930.

Directors &c., &c.,
The Broad Street Press Limited,
2, Broad Street Buildings,
E. C. 2.

Dear Sirs,

As set out in your nomination lists requesting the allotment of 950 fully paid Vendor Shares in this Company we now hand you in respect thereof Two Share Certificates Nos. 824 and 825 representing 950 Shares of 10/- each.

Yours faithfully,
For & on behalf of The Vulcan Copper Mines Ltd.,

431 EXHIBIT 157 Contd.

The Vulcan Copper Mines Limited,
(Registered in Southern Rhodesia)

25, Victoria Street,
London, S. W. 1.

Directors &c., &c.,
The Broad Street Press Limited. 23rd July, 1930.

Dear Sirs,

As set out in your letter of 22nd inst., nominating G. White Smith to receive an allotment of 100 fully paid cash shares in this Company we now hand you in respect thereof share certificate No. 826 representing 100 shares of 10/- each fully paid up, as duly allotted.

Yours faithfully,

London Secretary.

432 EXHIBIT 157 Contd.

The Vulcan Copper Mines Limited,
(Registered in Southern Rhodesia)

25, Victoria Street,
London, S. W. 1.

Directors &c., &c.,
The Broad Street Press Limited. 28 July, 1930.

Dear Sirs,

As set out in your letter of the 25th inst., nominating Mrs. J. A. Bradley to receive an allotment of 600 fully paid cash shares in this Company we now hand you in respect thereof share certificate No. 827 representing 600 Shares of 10/- each fully paid up as duly allotted.

Yours faithfully,

London Secretary.

433 EXHIBIT 157 Contd.

The Vulcan Copper Mines Limited,
(Registered in Southern Rhodesia)

25 Victoria Street,
London, S. W. 1.

Directors &c., &c., 6th August, 1930.
The Broad Street Press Limited.

Dear Sirs,

As set out in your nomination list of the 1st inst., requesting an allotment of 37095 fully paid cash shares in this Company we now hand you in respect thereof share Certificates Nos. 1146, 1199, 1200 to 1206 representing 31885 Shares of 10/- each fully paid up as part of the Shares duly allotted.

Yours faithfully,

London Secretary.

434 EXHIBIT 157 Contd.

6th August 30

The Broad Street Press Limited
2 Broad Street Buildings
E. C. 2.

Dear Sirs,

As set out in your nomination lists requesting the allotment of 251400 fully paid Vendor Shares in this Company, we now hand you in respect thereof 265 Certificates for Shares duly allotted numbered as below representing 251400 Shares of 10/- each.

Nos 828 to 834	967	1101 to 1111
" 836 to 837	970 to 975	1113 to 1115
" 839 to 849	977 to 984	1118 to 1128
" 851 to 852	989 to 998	1532
" 854	1000 to 1004	
" 856 to 879	1006 to 1011	
" 881 to 887	1013 to 1023	
" 889	1025 to 1046	
" 892 to 904	1048 to 1063	
" 906 to 910	1065 to 1070	
" 912 to 935	1539	
" 937 to 941	1073 to 1077	
" 943 to 944	1079 to 1082	
" 946 to 965	1085 to 1091	
	1093 to 1099	

Yours faithfully,

For & on behalf of The Vulcan Copper Mines Ltd

London Secretary.

435 Exhibit 157 Contd.

6th August 1930.

The Broad Street Press Limited
2 Broad Street Buildings
E. C. 2.

Dear Sirs,

As set out in your letter of 2nd inst. we now hand you 4 Share Certificates Nos. 985 988 for the allotment of 3765 cash shares as requested.

Yours faithfully,

For & on behalf of the Vulcan Copper Mines Ltd
London Secretary

436 Exhibit 157 Contd.

8th August 1930

The Broad Street Press Limited
2 Broad Street Buildings
E. C. 2.

Dear Sirs,

As set out in your letter of 5th inst. we now hand you 5 Share Certificates Nos 1309-1313 for the allotment of 5075 Cash Shares as requested.

Yours faithfully,

For & on behalf of the Vulcan Copper Mines Ltd
London Secretary.

437 EXHIBIT 157 Contd.

The Vulcan Copper Mines Limited
(Registered in Southern Rhodesia)

25 Victoria Street, London S. W. 1.

Directors &c &c 8th August 1930
The Broad Street Press Limited

Dear Sirs,

As set out in your nomination list of the 1st inst. requesting an allotment of 37095 fully paid cash shares in this Company we now hand you in respect thereof the balance of the Share Certificates Nos. 1442 to 1444, 1446, 1484, 1535, 1540, representing 5210 Shares of 10/- each fully paid up as duly allotted.

Yours faithfully,
London Secretary.

438 EXHIBIT 157 Contd.

The Vulcan Copper Mines Limited
(Registered in Southern Rhodesia)

25 Victoria Street,
London S. W. 1.

Directors &c &c 12th August 1930
The Broad Street Press Limited
2 Broad Street Buildings
E. C. 2.

Dear Sirs,

As set out in your nomination lists requesting the allotment of 37490 fully paid Vendor Shares in this Company we now hand you in respect thereof 36 Share Certificates Nos 1485 to 1488, 1491-1494, 1496-1525, representing 37490 Shares of 10/- each.

Yours faithfully,
For and on behalf of The Vulcan Copper Mines Ltd
London Secretary.

439 EXHIBIT 157 Contd.

The Vulcan Copper Mines Limited
(Registered in Southern Rhodesia)

25 Victoria Street
London S. W. 1.
August 25th 1930

Directors &c &c
The Broad Street Press Limited
2 Broad Street Buildings
E. C. 2

Dear Sirs,

As set out in your nomination letter of 23rd instant requesting the allotment of 6000 fully paid Vendor Shares in this Company, we now hand you in respect thereof one Share Certificates Nos 1526 to A. R. Wilson Wood representing 6000 Shares of 10/- each.

Yours faithfully,
For & on behalf of the Vulcan Copper Mines Ltd
London Secretary.

440 EXHIBIT 157 Contd.

The Vulcan Copper Mines Limited
(Registered in Southern Rhodesia)

25 Victoria Street
London S. W. 1.
28th August 1930

Directors &c &c
The Broad Street Press Limited
2 Broad Street Buildings
E. C. 2

Dear Sirs,

As set out in your nomination letter of the 23rd instant requesting the allotment of 6000 fully paid Vendor Shares in this Company, we now hand you in respect thereof 6000 Share Certificates Nos 1527 to E. M. Bowyer representing 6000 shares of 10/- each.

Yours faithfully,
For and on behalf of the Vulcan Copper Mines Ltd
London Secretary.

441 EXHIBIT 157 Contd.

The Vulcan Copper Mines Limited
(Registered in Southern Rhodesia).

25 Victoria Street
London S. W. 1.

Directors &c. &c. 1st September 1930
The Broad Street Press Limited
2 Broad Street Buildings
E. C. 2.

Dear Sirs,

As set out in your nomination list requesting the allotment of 400 fully paid Vendor Shares in this Company we now hand you in respect thereof Share Certificate No. 1528 to A. M. Grover representing 400 Shares of 10/- each.

Yours faithfully,
For & on behalf of The Vulcan Copper Mines Ltd
London Secretary.

442 EXHIBIT 157 Contd.

The Vulcan Copper Mines Limited
(Registered in Southern Rhodesia)

25 Victoria Street
London S. W. 1.

Directors &c &c September 11th 1930.
The Broad Street Press Limited
2 Broad Street Buildings
E. C. 2.

Dear Sirs,

As set out in your nomination lists requesting the allotment of 14725 fully paid Vendor Shares in this Company, we now hand you in respect thereof Seven Share Certificates Nos 1550 to 1553, 1548 to 1549 and 1534 representing 14725 Shares of 10/- each.

Yours faithfully,
For & on behalf of the Vulcan Copper Mines Ltd
London Secretary.

443 Exhibit 157 Contd.

The Vulcan Copper Mines Limited
(Registered in Southern Rhodesia).

25 Victoria Street
London S. W. 1.

Directors &c &c 16th September 1930.
The Broad Street Press Limited
2 Broad Street Buildings
E. C. 2.

Dear Sirs,

As set out in your nomination lists requesting the allotment of 5890 fully paid Vendor Shares in this Company we now hand you in respect thereof 15 share Certificates Nos. 1554 to 1560, 1562 1568 & 1843 representing 5890 shares of 10 each.

Yours faithfully,
For & on behalf of The Vulcan Copper Mines Ltd.
London Secretary.

444 Exhibit 157 Contd.

The Vulcan Copper Mines Limited.
(Registered in Southern Rhodesia)

25 Victoria Street
S. W. 1.

Directors &c &c 23rd September 1930
The Broad Street Press Limited
2 Broad Street Buildings
E. C. 2.

Dear Sirs,

As set out in your nomination lists requesting the allotment of 34453 fully paid Vendor Shares in this Company, we now hand you in respect thereof 117 Shares Certificates, Nos. 1571 to 1585 Representing 34453 Shares of 10/ each.

1587 1601
1603 1632
1634 1690.

Yours faithfully,
For & on behalf of The Vulcan Copper Mines Ltd.
London Secretary.

445 Exhibit 157 Contd.

The Vulcan Copper Mines Limited
(Registered in Southern Rhodesia)

25 Victoria Street,
London, S. W. 1.

Directors &c. &c. September 24th, 1930.
The Broad Street Press Limited
2, Broad Street Buildings,
E. C. 2.

Dear Sirs,

As set out in your nomination lists requesting the allotment of 40559 fully paid Vendor Shares in this Company, we now hand you in respect thereof 148 shares Certificates.

Nos. 1691 to 1751 representing 40559 shares of 10/- each
1753 — 1798
1800 — 1930
1832 — 1839
1841 — 1842

Yours faithfully,

For & on behalf of The Vulcan Copper Mines Ltd.
London Secretary.

446 EXHIBIT 158.

The Vulcan Copper Mines Limited
(Registered in Southern Rhodesia)

Telephone:
No. 1530 Victoria

25, Victoria Street,
London, S. W. 1.
30th June 1930.

Directors:
A. P. Sprange
A. H. Bonnard
A. Fraser
S. A. Redrup.

The Broad Street Press Limited,

Dear Sirs,

Provided you subscribe for 66,000 Shares of 10/- each in the Capital of the Vulcan Copper Mines Limited at par, we agree to pay you a commission of 10 per cent and we will grant you the call of a further 134,000 shares of 10/- each at par also on a commission of 10 per cent to you on the amount paid for the shares.

Yours faithfully,

By Order of the Board
For & on behalf of The Vulcan Copper Mines Ltd.
London Secretary.

447 Exhibit 159.

MARCONIGRAM

316

1930 APR 28 PM 12 49

Office of Origin

28RUTC79 Via Empiradio

ORD 138 Rulawayo 15 28 1045

Nuttalite London

Articles dated 26 Registered 28 April Directors

Alexander Fraser Sidney Aston Redrup

Clarke

138 26 28

448 Exhibit 160.

The Permanent Investments Limited

5 Court Row,

Inland Telegrams: Guernsey.

"Entreprise Guernsey" 7th July 1930.

The Vulcan Copper Mines Limited,

25 Victoria Street

S. W. 1.

Dear Sirs,

With reference to the amount due to us for advancing the registration expenses of your Company please pay the sum of £830 to Mr. A. Klein and forward us a cheque for this amount payable to him.

Yours faithfully,

F. Newbery,

Director.

449 Exhibit 162.

No. G 19810 *7563.

31/7/1930

Barclays Bank (Dominion, Colonial and Overseas)
with which is amalgamated
The National Bank of South Africa Limited 2d stp.
Circus Place, London Wall London E. C. 2.

Pay Cash or Order
Two hundred pounds

For and on behalf of Vulcan Copper Mines Limited
A. P. Sprague } Directors
Alfred H. Bonnard }

£200. 0. 0

A. Smith,
Secretary

Crossed: Barclays Bank
(T. 1) Basinghall Street (T 1)

PAID
3 Sep. 1930.

450 Exhibit 163.

VAUGHAN & BAKER,
late
TEMPLE & PHILPIN,
Solicitors.

20th Septr. 1930.
Kington, Herefordshire.

Dear Sir,

In June last a representative from a paper called Finance edited by Mr. N. W. Spencer called on me here, and induced me to purchase 2500 shares in your Co. Having done this Mr. Spencer carefully evades giving me any information about the shares. Would you therefore be so kind as to tell me

(1) Have the Memorandum & Articles of Association been filed yet and if so can I have a copy. What are the purposes for which the Company was floated.

(2) What is the present market value of the shares and are there any dealings in them.

(3) Are the shares likely (a) in the near future (b) at any time to have a Stock Exchange quotation.

(4) When are the shares likely to pay any dividend.

For your reply I shall be most grateful.

Yours faithfully,

Hubert H. de C. Vaughan.

451 Exhibit 164.

Vulcan.
26th September 1930.

H. H. de C. Vaughan Esq.,
Kington,
Herefordshire.

Dear Sir,

In reply to yours of 25th instant, a copy of the Memo. and Articles of this Company has been filed at Somerset House and a copy can be obtained from there. A number are in course of being printed and I shall be pleased to supply you with a copy as soon as these are ready.

This Company has only been recently formed and permission to deal in its shares on the London Stock Exchange has not yet been applied for as many formalities have still to be carried out.

You will doubtless appreciate that it is quite impossible for me to forecast when a dividend is likely to be earned as the Company has only recently commenced operations.

The Company owns mining claims with Gold and Copper contents in the Lomagundi district of Southern Rhodesia which have been well developed, showing good values, also Copper claims in S. W. Africa, near Windhoek.

The Company's Engineer has recently arrived in Rhodesia to take charge of the work to be carried out on the mine. Reports on the progress of the work will be issued to the shareholders from time to time.

We believe that we have acquired very valuable mines and the results of development work should determine the ultimate value of the shares.

Yours faithfully,

London Secretary.

452 EXHIBIT 165.

The Towers,
Newton Ferres,
S. Devon.

Oct. 16, 1930.

A. F. Smith Esq.,

Dear Sir,

Kindly inform me, the date that you issued on your book a Share Certificate for 500 Vulcan Copper Mines, drawn to my name, also No. of Certificate per Finance and oblige.

Yours faithfully,

P. DOUGLAS FRASER.

P. S. Certificate *No. and date entered on your books* drawn to *Percy Douglas Fraser per Finance*, 2 Broad Street Buildings, E. C. 2.

453 EXHIBIT 166.

P. D. Fraser Esq., 20th October 1930.
The Towers.
Newton Ferrers,
S. Devon.

Dear Sir,

In reply to your letter of the 16th instant, I beg to inform you that you are the duly registered holder of 500 shares in this Company of 10/- each fully paid. The Certificate for the shares No. 987 was issued on the 5th August last.

The Company owns mining claims with Gold and Copper contents in the Lomagundi district of Southern Rhodesia which have been well developed, showing good values, also Copper claims in S. W. Africa, near Windhoek.

The Company's Engineer has recently arrived in Rhodesia to take charge of the work to be carried out on the mine. Reports on the progress of the work will be issued to the shareholders from time to time.

The work so far carried out justified expectation that a good payable mine will be opened up.

Yours faithfully,

London Secretary.

454 EXHIBIT 167.

No. 53 AB / 8

Stamps 2d. Guernsey 1d.

MIDLAND BANK LIMITED
Electra House,
22, Moorgate, E. C. 2.

£28,000. 25th August 1930.

On Demand pay Pretoria Mining Estates Co. Ltd. or Order Twenty eight thousand pounds, on account of this Office.

To Midland Bank Ltd.,
St. Peter Port,
Guernsey,
Channel Islands. (Signed)
(Countersigned)

Crossed: Under Twenty eight thousand & one Pounds.

Rubber stamps: AB / 8
National Provincial Bank Limited,
Guernsey Old Bank Office,
Guernsey.
ditto. ditto.
U. D. Guernsey 38.
27 Aug. 1930.
Paid 28 Aug. 1930.

Endorsed: Placed to the credit of Payee
per pro National Provincial Bank Limited,
Guernsey Old Bank Office,
Guernsey.
(sd) J. A. de Garis, pro Manager.
Midland Bank Limited,
Guernsey.
To Head Office, London.
Paid 28 Aug. 1930.

455 EXHIBIT 168.

T. W. WEBB & COMPANY LTD.

AB/8.
563. 25/8/30

MIDLAND BANK LIMITED
Electra House, 392, Moorgate, E. C. 2.

Pay Midland Bank Limited or Order
Twenty eight thousand pounds. 2d. Stamp
for and on behalf of
£28,000.0.0. T. W. WEBB & COMPANY LTD.
(sd) R. H. BRETT } Directors.
A. T. SMITH

Crossed: and co.
a/c Payee
Rubber stamp: Paid 25 Aug. 1930.
Endorsed: per pro of Midland Bank Limited,
Electra House, 92 Moorgate, E. C. 2.
(signed)
Manager.

456 EXHIBIT 169.

London, Feb. 5th 1930.

No. F. 14978.
NORTH OF SCOTLAND BANK LIMITED,
3-4 Lothbury, E. C. 2.

Pay Manning & Sleigh or Order
Two thousand five hundred pounds. 2d. Stamp.
£2500. 0. 0

p. p. H. WISE
ARTHUR J. KLEIN.

Crossed: & Co.
Rubber Stamp: Midland Bank Limited,
Threadneedle Street, E. C. 2.
Paid 6 Feb. 1930
Endorsed: Sleigh
C. H. Sleigh
F. H. Manning
Manning.

437 Exhibit 170

No F 13094 London March 19th 1930

NORTH OF SCOTLAND BANK LIMITED,
3 4 Lothbury, E C 2

Pay F H Manning or Order
Twelve hundred and ninety pounds 2d stamp
£1290-0-0

p p H Wise,
Account J Klein

Endorsements Midland Bank Limited,
Threadneedle Street, E C 2
Paid 19 Mar 1930

Endorsed F H Manning

438 Exhibit 171

No F 14983 London Feb 17th 1930

NORTH OF SCOTLAND BANK LIMITED,
3 4 Lothbury, E C 2

Pay F H Manning or Order
Two hundred and fifty pounds 2d stamp
£250-0-0

p p H Wise,
(Sd) Account J Klein

Crossed & Co

Endorsements Midland Bank Limited,
Threadneedle St E C 2
Paid 19 Feb 1930

Endorsed F H Manning

450 Cheque 172

No P 14005 London, March 3rd 1930

NORTH OF SCOTLAND BANK LIMITED,
24 Lothbury, E. C. 2

Pay Cyril de B. James & Co or Order
Fifty eight pounds 1 2d stamp
£58 1 0

p. p. H. Wise,
(sd) Arthur J. Knox,

Crossed: & Co

Rubber stamps: Barclays Bank Limited,
'T' 18 Stock Exchange 'T' 18
8 Angel Court, E. C. 2
Paid 6 Mar 1930

Endorsed: Cyril de B. James & Co

460 Cheque 173

No P 13973 London March 11th, 1930

NORTH OF SCOTLAND BANK LIMITED,
24 Lothbury, E. C. 2

Pay Cyril de B. James & Co or order
Three hundred and twenty seven pounds 13/10 2d stamp
£327 13. 10

p. p. H. Wise,
(sd) Arthur J. Knox,

Crossed: & Co.

Rubber stamps: Barclays Bank Limited,
'T' 18 Stock Exchange 'T' 18
8 Angel Court, E. C. 2.
Paid 13 Mar. 1930.

Endorsed: per Pro Cyril de B. James & Co.
(sd) W. E. Ingham.

481 Exhibit 174

No F 13927 London March 14th 1930

NORTH OF SCOTLAND BANK LIMITED.
3 4 Lothbury, E C 2

Pay F H Manning or order
One thousand pounds 2d stamp
£1000 0 0

p p H Wise,
(Sd) Arthur J Klein.

Crossed & Co

Bankers stamps Midland Bank Limited.
Threadneedle St E C 2
Paid 14 Mar 1930

Endorsed F H Manning

369 Exhibit 175

No F 13921 London March 11th 1930

NORTH OF SCOTLAND BANK LIMITED.
3 4 Lothbury, E C 2

Pay F H Manning Esq or order
Seven Hundred and seventy eight pounds 2d stamp
£778 0 0

p p H Wise,
(Sd) Arthur J Klein

Crossed & Co

Bankers stamps Barclays Bank Limited
T 18 Stock Exchange T 18
8 Angel Court, E C 2
Remitted through Fenchurch Street
Barclays Bank Limited
T 18 Stock Exchange T 18
8 Angel Court, E C 2
Paid 12 Mar 1930

Endorsed F H Manning

463 Exhibit 176

R T. 2

No W 268381 London, March 10th 1930.
E. C. 2

BARCLAYS BANK LIMITED,
232 & Bishopsgate, E. C. 2.

Pay C. B. James & Co or Order
One thousand pounds 2d stamp
£1000. 0. 0.

Bromd Street Press Ltd.
(sd) Arthur S. J. Osmond } Directors
A. Parris

Rubber Stamps Barclays Bank Limited
T. 18 Stock Exchange T. 18
8 Angel Court, E. C. 2.

Remitted through Fenchurch Street
Barclays Bank Limited
Paid 11 Mar. 1930

Endorsed C. B. James & Co

464 EXHIBIT 178.

J. WISE.

2, Broad Street Place,
London, E. C. 2.
February 15th, 1930.

Telephones:
London Wall 4033-4.

The Secretary,
Wrigley (Sales) Limited,
177-178, Tottenham Court Road,
London, W. 1.

Dear Sir,

Your Reference CBS/MMW.

Acknowledging receipt of yours of the 14th instant, I desire to intimate that Miss M. Woollends was employed by me from September 7th 1928 until the 1st instant, when revised staff arrangements necessitated the terminating of her engagement.

During the sixteen months that Miss Woollends was identified on my staff, I found her thoroughly honest and willing and can confidently recommend her to fulfill the position for which she has applied.

Yours faithfully,

J. WISE.

465 EXHIBIT 179.

S

No. K 350541. London, August 21st, 1930.

BARCLAYS BANK LIMITED.
CHANCERY LANE BRANCH. (Stamp 2d.)
311-313 High Holborn, W. C. 1.

Pay Messrs T. W. Webb & Co. Ltd .....or Order
Thirty-three thousand pounds.
£33,000. BURNETT L. ELMAN.

Rubber Stamp: Paid.
21 Aug 1930.
Barclays Bank Limited.

Endorsed: T. W. Webb & Co. Ltd.
R. H. Brett,
Director.

466 EXHIBIT 180.

No. A. 19498. London, Aug. 13th 1930.

NORTH OF SCOTLAND BANK LIMITED.
3-4 Lothbury, E. C. 2. (Stamp 2d.)

Pay T. W. Webb & Co. Ltd. .....or Order
Thirty three thousand pounds only.
£33,000. 0.0. H. WISE.

Crossed: & Co.

Marked: CANCELLED (hand written across face in red ink.)

487 Exhibit 181

BURNETT L. ELMAN
Solicitor

97, Lincoln's Inn Fields
London, W.C. 2
22nd February 1930

Telephones: Holborn (0333, 0330, 0339)

Dear Sirs,

I understand that recently the British Investment Service (London) Ltd of 120 Moorgate, London, E.C. were in communication with you, and have given you my name as a client, and I learn from them that you have agreed to act for me, and are satisfied as to my credentials.

This being the case, I shall be glad if you will sell for me on Monday next the 24th inst. 10,000 shares of Sunbeam Pressmark & Conveyors Ltd at the price of 6/3d (Six shillings and three pence) and as I expect that you may have business in these shares I shall be obliged if you will kindly wire me at 2.30 p.m. on Monday next, as to how many shares you have dealt in for me.

These shares will be delivered to you through my Bankers, and in the meantime, I enclose herewith Market Slip of same.

Thanking you,

Yours faithfully,

BURNETT L. ELMAN.

Messrs Houlton & Leonard,
Bank Chambers,
52 Coney Street,
York.

468 Exhibit 182

24th February, 1930.

Burnett L. Ellman Esq.,
27, Lincoln's Inn Fields,
London, W. C. 2

Dear Sir,

We thank you for your favour of the 22nd instant, in requesting us to sell

10,000 Sunbeam Crosswork & Conveyors Shares

at 8/3 or better, but regret we have been unable to execute as the shares are not of a class in which either we or our clients are likely to have any interest

We confirm our wire to this effect

Yours faithfully,

189 Exhibit 188

No. 871 B 798606 F London, 29 Apr 1930.

LLOYDS BANK LIMITED

Stock Exchange Branch, 21 Austin Friars, E. C. 2.

(Stamp 2d.)

Pay A. J. Klein Esq or Order

Six thousand & ninety seven pounds 4/11

per pro Accountant Vouno.

£6097. 4. 11. JAMES E. TRESAMAR

Crossed: & Co.
Not Negotiable.
Account Payee.

Rubber Stamps: 1 May 1930.
Brown Shipley & Co.
Founders Court, E. C. 2.

Endorsed: A. J. Klein.

470 EXHIBIT 189.

F07638	H. Wise	Phantestra Bal. sales & Purchase		10	Jan.	1930.		25000.
F07644	"	Phantestra	"	22	Jan.	1930.		13928. 2
F07645	"	Sunfruit	"	23	Jan.	1930.		4054.15. 5
F07647	"	Charterhouse Caterers	"	27	Jan.	1930.	5. 5.2)	
							)	627.15. 2
	"	Phantestra Purchase		27	Jan.	1930.	150.)	
	"	Sunfruit	"	27	Jan.	1930.	472.10.)	
F14971	"	Sunfruit	"	29	Jan.	1930.	350.)	
							)	359. 5.
	"	Phantestra	"				9. 5.)	
F14977	"	Phantestra	"	4	Feb.	1930.		153. 2. 6
F14979	"	Sunfruit	"	10	Feb.	1930.		195.
A19492	H. Guest	War 5%	"	24	Jly.	1930.		31126.
A19493	"	"	"	25	Jly.	1930.		20747. 5.
A19494	"	"	"	30	Jly.	1930.		5190.11. 2
A19495	"	"	"	5	Aug.	1930.		10392.15. 9
A19496	"	"	"	8	Aug.	1930.		10409.19. 6
A19497	"	"	"	11	Aug.	1930.		10408. 5. 2
A19500	"	"	"	20	Aug.	1930.		52122.17. 6
A25563	"	"	"	27	Aug.	1930.		57326.
A25564	"	"	"	28	Aug.	1930.		10425.12.
X49383	"	Balance of dealing (from 1st Aug-3 Oct)		8	Oct.	1930.		4592. 6
X49389	A. J. Klein			14	Oct.	1930.		24000.
X49391	"			15	Oct.	1930.		18278.12. 2

471 EXHIBIT 191.

FOREMAN-STATE NATIONAL BANK
Foreman-State Trust and Savings Bank.
Chicago.

FRED A. ROZUM,
Vice President
and Manager
Foreign Dept.

September 10, 1930.

Mr. Augustus Young,
Warnford Court,
Throgmorton Street,
London, E. C. 2., England.

Dear Sir,

We are in receipt of your letter of the 28th ultimo and also package containing:

£200,000.0.0 British War Bonds
5% 1929-47

which, according to your request, we delivered to Mrs. Louis Cohen, 5048 Quincy Street, Chicago, as evidenced by the attached receipt.

Very truly yours,

H. A. TULL,
for Vice-Pres.—Mgr. Foreign Dept.

FAR.A
Enclosure.

472 EXHIBIT 191 Contd.

FOREMAN-STATE NATIONAL BANK.
Foreman-State Trust and Savings Bank.
Chicago.

FRED A. ROZUM.
Vice President
and Manager
Foreign Dept.

September 9th, 1930.

Received of Foreman-State National Bank,
Chicago, Illinois,

£200,000-0-0 (Two Hundred Thousand Pounds Sterling) British War Loan, 1929-47 with coupons attached, December 1st, 1930 and all subsequent, by order of Augustus Young, Warnford Court, E. C. 2., London, England.

.....
(Signature indecipherable).
Signature of Mrs. Louis Cohen.

Charles G. Cohen.

Signature Guaranteed.
Foreman-State National Bank.
H. A. TULL,
for Vice-Pres. Mgr. Foreign Dept.

473 EXHIBIT 192.

Sept. 9, 1930.
Chicago, U. S. A.

Mr. Augustus Young.

Dear Sir,

Your letter of Aug. 28th received. In compliance with your request am informing you that the 5% War Bonds to the amount of £200,000 have been received satisfactorily.

Thanking you for your interest in the matter.

I beg to remain,
MRS. LOUIS COHEN,
per CHAS. G. COHEN.

474 EXHIBIT 195.

No. 874/ B819133. London 26 Jun 1930.

LLOYDS BANK LIMITED.
Stock Exchange Branch, 21, Austin Friars, E. C. 2.

(Stamp 2d.)

Pay H. Green Esq. .....or Order
thirty nine thousand six hundred & forty three pounds.

Per Pro AUGUSTUS YOUNG,
JAMES E. TRENAMAN.

£39,643.

Crossed: & Co.
Not Negotiable.
Account Payee.

Rubber Stamps: 27 Jun 1930.
436 Westminster Bank Ltd. 436
Newington Butts Branch.
(16 & 18, Newington Butts, London, S. E. 1.)
Remitted Through Lombard Street.
C

Endorsed: H. Geen.
475

EXHIBIT 196.

W. J. JOSE

Sold	Name of Security	Price	Date Delivered	Extension.
21 Aug.	£100 Chile 6% 1929	98	29 Aug.	97. 9.6
21 Aug.	£100 Chile 6% 1926	95	28 Aug.	94. 9.6
4 Sept.	300 Oceana Consolidated	6¾d	12 Sept.	8. 3.3
4 Sept.	100 G. Selfridge T. 6% Pf.	11/-	15 Sept.	54. 7.0
4 Sept.	5 G Selfridge T. Ord.	18/6	15 Sept.	4. 7.6
4 Sept.	6 Slaters and Bodega	26/-	15 Sept.	7.10.6
4 Sept.	20 Beechams Pills Dfd.	2/1½	12 Sept.	2. 2.6
4 Sept.	20 Beechams Pills Pfd.	20/9	12 Sept.	20. 4.6
4 Sept.	28 Chenderiang Tin	2/6	12 Sept.	3. 7.6
4 Sept.	320 Portfield Steamship	2/10	12 Sept.	44. 6.2
4 Sept.	200 Peacock and Nilambe	1/4½	12 Sept.	13. 6.2
4 Sept.	95 Peacock and Nilambe Pf.	1/3	12 Sept.	5.13.3
4 Sept.	£100 Mort. Bk. of Bogota 7%	89½	11 Sept.	88.19.6
4 Sept.	£100 G. Western Rly.	69½	15 Sept.	68.19.6
4 Sept.	108 Bikam Estates	10½d	12 Sept.	4. 9.6
			TOTAL	£517.15.10

476

EXHIBIT 198.

Telephones:
London Wall 4033.
4034.

2, Broad Street Place,
London, E. C. 2.

29th November, 1928.

Messrs. Dickinson & Sidebottom,
Gresham House,
24, Old Broad Street,
E. C. 2.

Dear Sirs,

With reference to the assurance which you have given to the Stock Exchange Committee as to the distribution and marketing of the Vendors and Option Shares we beg to state that we shall arrange for you to be supplied with these shares at current market prices and that a line of £25,000 will be available at the opening price.

Yours faithfully,

H. WISE,

477 EXHIBIT 199.

NORTH OF SCOTLAND BANK LIMITED,

3-4 Lothbury,
London, E. C. 2.

8th December 1928.

Messrs. Dickinson & Sidebottom,
Stockbrokers,
Gresham House,
London, E. C. 2.

Dear Sirs,

We refer to our letter of the 6th instant to you. We have further instructions from our esteemed customer, Mr. H. Wise, to take up from you securities representing Victoria Gramophone and Aeonic Radio Limited shares and we now write to confirm that he has placed in our hands the sum of in all £40,000, which we are instructed to pay you against delivery of the above shares. It is understood that Mr. Wise and your good selves will instruct us as to the time and description of deliveries. We will either pay you in whole or in part as they are tendered for delivery, in conformity with Mr. Wise's and your own instructions.

Yours faithfully,

Manager.

P.S. The above, of course, supersedes our letter of the 6th inst.

478 EXHIBIT 199 Contd.

On back of preceding letter—Ex. 199.

	Paid £7,550		for 30,049 Aeonic Radios. Guarantee reduced by that amount G. N.
	Paid £7,863		for 23,601 Aeonic Radios and 8,180 Victoria Grams. Guarantee reduced to £24,-587. G. N.
27/12/28	Paid £5,356		for 11,345 Aeonic Radios and 11,740 Victoria Grams. Guarantee reduced to £19,-231. H. E. T.
28/12/28	Paid £4,572.	6.9	for 9,250 Aeonic Radios and 10,531 Victoria Grams. Guarantee reduced to £14,-659. G. N.
31/12/28	Paid £3,114.13.9		for 1,800 Aeonic Radios and 12,415 Victoria Grams. Guarantee reduced to £11,-545. G. N.
2/ 1/29	Paid £2,821		for 5,100 Aeonic Radios and 7,200 Victoria Grams. Guarantee reduced to £8,724. G. N
3/ 1/29	Paid £2,572.	5.0	for 5,920 Victoria Grams and 5,205 Aeonic Radios. Guarantee reduced to £6,-151.15.0. G. N.
4/ 1/29	Paid £3,817.	6.5	for 2,800 Aeonic Radios and 5,984 Victoria Grams. Guarantee reduced to £2,-334.8.7. G. N.
7/ 1/29	Paid £1,500.	7.6.	for 6,990 Victoria Grams. Guarantee reduced to £834,-1.1 G. N.
8/ 1/29	Paid £ 384.	7.6	for 1790 Victoria Grams. Guarantee reduced to £449.13.7. G. N.
10/ 1/29	Paid £. 215.15.3		for 1,005 Victoria Grams. Guarantee reduced to £233.18.4. G. N.
11/ 1/29	Paid £ 429.	6.0	for 2,000 Victoria Grams. Guarantee extinguished. G. N.

479 EXHIBIT 201.

No. F. 14975. London, Feb 3rd 1930.

NORTH OF SCOTLAND BANK, LIMITED,
3-4, Lothbury, E. C. 2. (Stamp 2d)

Pay Dickinson & Sidebottom ..... or Order
Five hundred pounds.
£500/-/- pp. H. WISE,
ARTHUR J. KLEIN.

Crossed: & Co.

Rubber Stamps: Westminster Bank Limited,
Midday
Lothbury.
Paid 4 Feb 1930.

Endorsed: per pro Dickinson & Sidebottom
ERNEST A. TATE.

480 EXHIBIT 202.

THA/FN.

17th February 1930.

B. L. Elman, Esq.,
27, Lincolns Inn Fields,
London, W. C. 2.

Dear Sir,

With reference to the Brokers to whom we are introducing your name, no doubt you have had letters from a number of them, since they have told us they were going to write to you.

In one case, that of Wm. J. McLaughlin of 173, St. Vincent Street, Glasgow, we have had forwarded to us a copy of a letter which this gentleman has sent to you, and since you may rather wonder what he is talking about, I thought perhaps a word of explanation might be desirable. This man is a Chartered Accountant, who deals through a Broker on the Glasgow Exchange, and obviously it is a trifle difficult for him to see why you should deal with him who has to deal through a Glasgow broker who, in turn, in all probability would have to deal through London, and of course, in the ordinary way it would be useless. The reason for our writing to him, however, is that he does a Stock Exchange business for a number of clients and in this way would be just as useful as a member of any of the Exchanges. Consequently, when writing to him, perhaps you will bear in mind his rather peculiar position.

Messrs. Harry Noden & Co. of Corridor Chambers, Market Place, Leicester, have asked us whether you would write to them giving "some idea of the nature and size of the business to enable them to consider the matter" before deciding whether to deal for you or not, and we have told them that in all probability you will be writing. Mr. Granville Mills of 48/50, Union Street, Oldham has intimated his willingness to deal, but before finally deciding, would prefer you to communicate with him giving him some idea of the class
481 of business you are likely to put through him.

Yours faithfully,

For British Investment Service (London) Limited.

482 EXHIBIT 202 Contd.

THA/FN.

20th February 1930.

B. L. Elman, Esq.,
27, Lincolns Inn Fields,
London, W. C. 2.

Dear Sir,

With reference to the Brokers to whom we are introducing your name, would you kindly communicate with Messrs. Kidston, Goff & Co., of 94, Hope Street, Glasgow, giving them a general idea of the business you wish to conduct with them. I may say that these people are one of the largest Brokers in this town, and merit as much consideration as is possible.

Would you, at the same time, write a similar letter to Messrs. John Marcroft & Co. of Lloyds Bank Chambers, Church Street, Sheffield, as they will not make up their mind whether to deal for you or not, until they have heard from you direct.

Yours faithfully,
For British Investment Service (London) Limited.

483 EXHIBIT 202 Contd.

THA/FN.

21st February 1930.

B. L. Elman, Esq.,
27, Lincolns Inn Fields,
London, W. C. 1.

Dear Mr. Elman,

With regard to the Brokers to whom we are introducing you, would you please write to Messrs. T. & F. Morris, 14, Bowkers Row, Bolton, as they wish to open communications with you before definitely deciding to deal.

I have received a further letter from William Laughland of Ayr, and from the tone of it, it is evident that it would be best to wash him out, as he does not seem to be able to grasp the business at all, and in all probability would make a mess of it.

Yours faithfully,

CITY OF LONDON, TO WIT:

I, the undersigned, one of the Aldermen of the City of
484 London and one of the Justices of the Peace acting in and for the said City, sitting at the Guildhall Justice Room, HEREBY CERTIFY that the typewritten matter contained in the foregoing pages numbered 1 and 2 is a true copy of the supplemental Deposition of Claud James Matthew Gwatkin sworn before me this day and that the typewritten matter contained in the foregoing pages numbered 3 to 76 is a true copy of the Depositions of Reginald Harrington Brett, Cyril Thomas Newman, Alfred Percy Sprange, Arthur John Aldis, Edward Andrew Stirling, Sidney Brignell, Reginal Devey, Anthony Edgar Somers, Richard Oliver Mitchell, George Albert Woodley, Frederick Henry Manning, Agnes Madeleine Penn, Jose de Camara Leme, Frederick William Jan, Leslie Williams, Margaret Woollends, Leonard Victor Shortlands, Arthur Clabburn Detrez, Stanley Grove Spiro, Frederick William Duffill, Thomas Goulton Leonard, Wilfred John King, Augustus Young, William Harold Brett, Russell Sidebotham, Ernest Frank West, and Thomas Harvey Acklan, severally taken and sworn before me at the Guildhall Justice Room on the 25th day of February 1931; 5th day of March 1931; 12th day of March 1931; and 18th day of March 1931; in the presence and hearing of Herbert John Spellen, Joseph Wise, Burnett Leon Elman and Frederick Newbery, now charged before me with conspiring together, with each other and with Harry Wise, otherwise J. Factor otherwise ..... Guest, otherwise J. Walker, and with the said Arthur J. Klein and with other persons unknown to cheat and defraud such persons as should be induced to part with money to the said Harry Wise, otherwise J. Factor otherwise ..... Guest, otherwise J. Walker and to the said Arthur J. Klein and to the other persons unknown, trading

under the name of the Broad Street Press, Limited, by false representations that they were then carrying on a genu-
485 ine business as Stock and Share Brokers and that the typewritten matter contained in the foregoing pages numbered 77 to 152 are true copies of certain of the Exhibits referred to in the said Depositions.

Given under my hand and seal at the Guildhall Justice Room aforesaid this 25th day of March 1931.

ISIDOR N. JACOBS.

[SEAL
GUILDHALL JUSTICE ROOM
CITY OF LONDON]

25 Mar. 1931
City of London.

[SEAL
ALDERMAN
JUSTICE OF THE PEACE
GUILDHALL JUSTICE ROOM
CITY OF LONDON]

[SEAL
SECRETARY OF STATE
HOME DEPARTMENT]

487 Motion, filed May 25, 1931.

And now upon the offer of all of the depositions and evidence upon the part of the Kingdom of Great Britain, the applicant herein, comes the defendant, John Factor, by his attorneys, Levinson, Becker, Glenn & Schwartz, and moves the Commissioner to dismiss the complaint herein, quash the warrant issued thereunder and order the discharge of the defendant.

488 Motion.

And now upon the offer of all of the evidence and depositions on behalf of the complainant herein comes John Factor, by his attorneys, Levinson, Becker, Glenn & Schwartz, and moves the Commissioner to exclude all of the depositions and evidence presented by the complainant and to sustain the objections heretofore made by the defendant thereto, and to strike all of said depositions from the record herein.

490 Respondent's General Objections to all Depositions and Exhibits.

By virtue of the suggestions heretofore made, we submit herewith our general objections to the whole of the depositions and exhibits offered in evidence by the British Government.

General Objections to all Depositions.

All of the depositions and exhibits contained in Groups 1, 2, 3 and 4, are objected to because not property certified under the provisions of Section 655, Title 18, United States Code Annotated.

The certificate of Charles G. Dawes as the principal diplomatic officer of the United States resident in Great Britain is identical as to each group of depositions and exhibits. In each instance the Ambassador certifies that the documents contained in each group are properly authenticated so as to entitle them to be received in evidence "for similar purposes by the Tribunals of Great Britain." The "similar purposes" referred to in the certificate and therein stated have been interpreted to mean proof of the probable guilt of the accused on a charge of "receiving certain moneys knowing the same to have been obtained under circumstances which amount to a misdemeanor, to-wit, conspiracy to defraud." This certificate in substance is a statement by Charles G. Dawes that the documents referred to would be received in Great Britain as evidence in support of a charge of receiving money knowing the same to have been obtained by means of a conspiracy

to defraud. The admissibility of the documents is cer-
491 tified to only to the extent that it relates to the matter contained in the charge. If the charge against the defendant as filed in Great Britain is not criminal in Illinois, and such is our position, the documents so certified cannot be received in evidence for any purpose.

The treaty between the United States and Great Britain amounts to no more and no less than a contract entered into by and between the two Nations, that they will under certain circumstances deliver up to justice all persons who have been charged with certain crimes committed within the jurisdiction of either. The first treaty which was entered into on August 9, 1842, provided that such action would be taken as related to persons charged with murder, assault to commit murder, arson, piracy, robbery or forgery "provided that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the crime or offense had there been committed;"

To the offenses enumerated in the Treaty of 1842 there were added other offenses by a subsequent treaty entered into in 1889, which amended the Treaty of 1842. In the additional offenses, we find manslaughter, counterfeiting, embezzlement, larceny, fraud by bailee, perjury, rape, kidnapping, abduction, burglary, revolt and crimes of both countries, for the suppression of slavery, and also receiving any money, valuable security or other property knowing the same to have been embezzled, stolen or fraudulently obtained. In the amendment of 1889, we also find at the conclusion of the enumerated offenses the expression "provided such partici-
pation be punishable by the laws of both countries."
492 Upon the basis of the provision of the Treaty of 1842, and the provision last referred to of the amending Treaty of 1889, the Supreme Court of the United States, and the highest courts of Great Britain have held upon innumerable occasions that in order to extradite from one county to the other, the offenses charged must be criminal both in the jurisdiction where committed and in the jurisdiction in which the accused is found, in this case both in the City of London in Great Britain and in the State of Illinois.

The charge against the accused here, it will be observed, is one of the charges mentioned in the amending Treaty of

1889, but both by the Treaty of 1842 and the amending Treaty of 1889 it is only an extraditable offense or charge when made criminal by the laws of Great Britain and the State of Illinois.

The warrant issued in London recites that the defendant "did receive from the Broad Street Press Limited," various sums of money "respectively knowing the same to have been obtained under circumstances which amount to a misdemeanor, to-wit, conspiracy to defraud" * * * "contrary to Section 33 (1) o fthe Larceny Act of 1916.

It is interesting to note in this connection that the first complaint filed herein which involved Factor charged him with conspiracy to defraud (printed depositions, page 4).

493 On page 3 of the same volume appears an amended complaint filed two days later which charges the same persons named in the original complaint, with the addition of Arthur J. Klein, with conspiracy to defraud. The warrant issued against Klein, which was apparently the first of the numerous warrants issued herein charges him with the offense of conspiracy to defraud. At the time that Klein appeared before the United States Commissioner in New York, this was the charge against him made by the British Consul at New York. It is apparent that up to that time the British Government had not realized that conspiracy to defraud was not one of the crimes mentioned in the Treaty for extradition. At a subsequent date, and before any hearing, counsel for the British Government in New York obtained leave and did file an amended complaint charging Klein with the offense of receiving money knowing the same to have been fraudulently obtained. This offense is made a crime by the statutes of the State of New York.

When the papers were prepared in London regarding Factor, it is particularly significant to note that a new complaint was filed charging Factor with receiving money knowing the same to have been obtained under circumstances amounting to a conspiracy to defraud. This new complaint against Factor was filed in London subsequent to the amendment of the Klein complaint in New York. This complaint was prepared December 10, 1930, over a month after the preparation of the original complaint. We call the attention of the Commissioner to these facts for the reason that they show conclusively that the British Government has recognized the fact that the crime charged must be an offense mentioned in the Treaty and

which is criminal both in the jurisdiction where committed and where the accused is found. The amendment as made brought the offense within the purview of the New York statute. We have an entirely different situation in Illinois.

Section 33 of the Larceny Act of 1916, of the Kingdom of Great Britain, in so far as the same is pertinent here is as follows:

> "Every person who receives any property knowing the same to have been stolen or obtained in any way whatsoever under circumstances which amount to felony or misdemeanor shall be guilty of an offense of the like degree (whether felony or misdemeanor) and on conviction thereof liable."

In other words, the receiving of property knowing the same to have been obtained by misdemeanor is made a misdemeanor in Great Britain.

The Illinois Legislature has dealt with the problem of under what circumstances an individual shall be punishable who receives property with a guilty knowledge concerning its acquisition. We refer the Commissioner to Section 492 of the Criminal Code in Illinois, being Chapter 38 of Smith Hurd Revised Statutes 1929. This section is as follows:

> "Every person who, for his own gain, or to prevent the owner from again possesing his property, shall buy, receive or aid in concealing stolen goods, or anything, the stealing of which is declared to be larceny, or property obtained by robbery or burglary, knowing the same to have been so obtained, shall be imprisoned," etc.

The Illinois statute must be read in conjunction with the British statute above cited. It is in this section, 492 of the Illinois Act that the Illinois Legislature fixed and determined this question, under what circumstances the receipt of property with knowledge would be made criminal. The Illinois Legislature has provided that one who receives property knowing the same to have been obtained by larceny, robbery or burglary, and those offenses only, shall be held responsible criminally for such receipt.

We desire here to again call the attention of the Commissioner to the language of the treaty, quoting from Article 10 of the original Treaty of 1842.

> "It is agreed that Her Britannic Majesty and The United States shall, * * * deliver up to justice all

persons who, being charged with the crimes * * * provided that this shall only be done upon such evidence of criminality as according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the crime or offense had there been committed."

We take the position that the certificate of Charles G. Dawes appended to each one of the four groups herein is fatally defective for the reason that he certifies that the documents would be received in evidence by the Tribunals of Great Britain in support of the charge made there which is not an offense under the laws of Illinois, and therefore not an extraditable offense. The depositions not being properly certified under the Act, must not be received or admitted in evidence.

Section 655, Title 18, United States Criminal Code, provides that properly authenticated and certified depositions shall be received as evidence on such hearing for all purposes of such hearing. The purposes of the Extradition hearing can briefly be summarized as follows:

496 1. Determination that a criminal charge is pending in the courts of the demanding nation.

2. Determination that the offense as charged in the demanding nation is enumerated and made extraditable in the Treaty.

3. Determination that the offense as charged is made criminal by the laws of the jurisdiction where the hearing occurs.

4. Determination that there is sufficient competent evidence submitted to warrant the commitment of the accused for trial, if the offense as charged had been committed in the jurisdiction where the accused is found.

The despositions offered were made and are here presented in support of a charge enumerated in the Treaty, but which charge is not made criminal by the laws of the State of Illinois. Concisely stated, our objection is that the depositions cannot be received in evidence and considered by the Commissioner for the reason that they are given in support of an offense which is not extraditable under the existing condition of the treaties between the United States and Great Britain.

CONCLUSION.

We submit that the foregoing objections to the sufficiency of the certificate and to the general question of admissibility of the whole of the depositions are all controlling, and that there is no necessity for a discussion of the subject matter contained in the depositions to determine their admissi-
497 bility under the rules of evidence in the State of Illinois.

These objections should be determinative of the entire case presented by the demanding government. The accused is charged with that which is not a crime in the State of Illinois, and is therefore not within the purview of the Treaty. A determination of these objections should, we submit, determine this entire controversy. When these objections are sustained, the Commissioner must necessarily order the discharge of the accused. Under the statement of counsel made to the Commissioner we have in good faith prepared written objections to the specific depositions, pointing out the many insufficiencies and defects which make them inadmissible. We shall, however, not burden the Commissioner with their submission at the present time because we confidently expect that the objections herein contained will be submitted.

All of which is most respectfully submitted.

LEVINSON, BECKER, GLENN & SCHWARTZ,
Attorneys for Respondent.

498 Respondent's Objection to the Competency, Relevancy and Admissibility of Depositions and Exhibits.

(NOTE: Where page references are given herein, the reference is to the page of the printed depositions and exhibits.)

499 And now comes John Factor by his attorneys, Levinson, Becker, Glenn & Schwartz, and submits the following objections to the materiality, relevancy, competency, and admissibility of the depositions and exhibits herein offered in evidence by the British Government.

GROUP 1.

Document 1. (Page 3) Deposition of the Director of Public Prosecutions. This document is the information of the Director of Public Prosecutions requesting a warrant for Arthur J. Klein charging him with conspiracy to defraud.

It is submitted that the complaint against Arthur J. Klein charging him with conspiracy should not be received as any evidence whatsoever against the defendant, John Factor.

Document 2. (Page 3) The affidavit of Arthur Ward upon which said information concerning Arthur J. Klein was based is on its face made solely upon information and belief and relates only to Arthur J. Klein, and also relates wholly and solely to the activities of Arthur J. Klein in connection with the Broad Street Press Limited.

Document 3. (Page 4) This document purports to be the information of the Director of Public Prosecutions making application for a warrant against Walker, Wise, Moncrieff, Green, Guest and Spellan charging that they conspired together to defraud other persons as should thereafter be induced to part with money. This information is a charge of conspiracy and nowise competent evidence of the charge here made of receiving money knowing the same to have been fraudulently obtained.

Document 4. (Pages 4, 5, 6, 7 and 8) The affidavits of Cyril Thomas Newman and Arthur Ward upon which said information of conspiracy was based are wholly hearsay and not the best evidence and contain no matter materially relevant to this charge here presented.

Document 5. (Page 8) Warrant for the arrest of Arthur J. Klein. This document has no bearing whatsoever upon the issues here involved, and charges Arthur J. Klein with conspiracy. This warrant is not competent evidence on the charge here made by the British Government.

Group 2.

Document 1. (Page 12) Deposition of the Director of Public Prosecutions. This document is the information of the Director of Public Prosecutions for the issuance of a warrant for the defendant charging him with receiving money knowing the same to have been obtained by conspiracy to defraud. This should not be received in evidence for the reason that the crime charged is not an extraditable offense in that it is not a crime in Illinois and should for the reason stated be excluded.

Document 2. (Page 13) Affidavit of C. T. Newman is wholly hearsay evidence and therefore incompetent. It consists entirely of conclusions of affiant.

Document 3. (Page 14) The deposition of William Joseph Wallis Hill, Examiner in the Department of the Official Receiver in Companies Liquidation. This affidavit being also a supporting affidavit to the information should not be received in evidence as the whole thereof is based on hear-
501 say, except one statement of the order of Court of November 24, 1930, for the compulsory winding-up of the Rhodesia Border Mining Corporation Limited, and the facts (except the one mentioned) are mere conclusions. He refers to documents and records of the Broad Street Press Limited and makes statements from them, thereby seeking to substitute oral testimony for written documents, and for this further reason said affidavit should not be admitted in evidence.

Document 4. (Page 15) The affidavit of Gladys Marion Stacy. This is also a supporting affidavit to the information, and should not be received in evidence for the reason that the affiant seeks to recite the contents of certain letters, papers and telegrams whereas the originals are the best evidence. There is in said affidavit statements of a telephone conversation with one Spencer which has no relevancy or competency in this matter, and the whole of said affidavit is irrelevant and immaterial. The statement at the end of the affidavit, that is, to-wit:

> "From several inquiries I have since made I am sure that the shares purchased by me are entirely worthless and that my money has been obtained from me by fraudulent means"

is wholly hearsay and an expression of opinion based upon information received from others, and should therefore be wholly rejected.

Document 5. (Page 18) The affidavit of John Thomas Hedley. The whole of this deposition pertains to letters and telephone conversations between the affiant and one Spencer. The same effort is made to put in the contents of certain letters and documents by oral testimony rather than by the original documents, which oral testimony is inadmissible.

The references to telephone conversations with Spencer
502 are irrelevant and immaterial and cannot be admitted in evidence against this defendant. The statement at the end of the affidavit, that is, to-wit:

> "From several inquiries I have since made I am sure that the shares purchased by me are entirely worthless and that my money has been obtained from me by fraudulent means"

is wholly hearsay and an expression of opinion based upon information received from others, and should therefore be wholly rejected.

Document 6. (Page 19) The affidavit of Frederick William Turner. This is also a supporting affidavit to the information and attempts to put in evidence the contents of various letters and documents by oral testimony, which is inadmissible as the letters and documents are the best evidence, and so long as available the only admissible evidence of their contents. This affiant also relates alleged telephone conversations with one Spencer which are irrelevant and immaterial as against this defendant, and inadmissible for that reason. The statement at the end of the affidavit, that is, to-wit:

> "From several inquiries I have since made I am sure that the shares purchased by me are entirely worthless and that my money has been obtained from me by fraudulent means"

is wholly hearsay and an expression of opinion based upon information received from others, and should therefore be wholly rejected.

Document 7. (Page 22) The affidavit of Frank S. Cochrane. This affidavit attempts to put in evidence the contents of various letters and documents by oral testimony, and such oral testimony as to the contents of such letters and documents is inadmissible. Some of the letters and
503 documents referred to do not even state from whom they were received. This affidavit further makes statements which are pure hearsay, such as "I later ascertained from my Bankers" certain information which the affiant states to be the fact. The affiant also relates a certain telephone conversation with one Norman D. Spencer which is wholly irrelevant and immaterial as against this defendant. The statement at the end of the affidavit, that is, to-wit:

> "From several inquiries I have since made I am sure that the shares purchased by me are entirely worthless and that my money has been obtained from me by fraudulent means"

is wholly hearsay and an expression of opinion based upon information received from others, and should therefore be wholly rejected.

Document 8. (Page 24) The affidavit of Augustus Young. This is also a supporting affidavit to the information and is

wholly irrelevant and immaterial. It discloses many transactions in large sums between Augustus Young as a broker and Klein, and Guest, but none of these transactions are charged or claimed to be unlawful, and the whole of said deposition is wholly immaterial and irrelevant to the issues here presented.

Document 9. (Page 27) Affidavit of Robert Henderson Hamilton. This affidavit should not be received in evidence as being wholly irrelevant and immaterial, and discloses nothing more or less than the fact that two sums of money were deposited in the North of Scotland Bank Limited.

Document 10. (Page 28) Affidavit of Benjamin Brychan Williams.

Document 11. (Page 29) Affidavit of Cecil Gates. The two latter affidavits merely show the deposits of certain 504 funds in certain banks in favor of H. Wise which we submit is wholly irrelevant and immaterial.

Document 12. (Page 29) Affidavit of Robert James Trivett. This document is also irrelevant and immaterial. Affiant here states that he was a valet for Klein and that an individual, his wife and child joined Klein at this flat, who "I was told was a Mr. Fraser, and his wife and child." Affiant does not state who told him this, but does state that Factor told him his name was Factor. Whether the facts stated in said affidavit are true or false is wholly immaterial, as the incident has no bearing whatsoever on the issues here involved.

Document 13. (Page 29) Affidavit of Frederick William Memory. The material in this document is wholly irrelevant and immaterial, and therefore inadmissible in this proceeding, as it does not state anything other than that Factor was known to the affiant as Jacob Factor, and that the affiant discussed a libel suit with Mr. Factor against one of the London daily newspapers. It is evident that the facts therein related have no bearing upon the issues here involved.

Document 14. (Page 29) The affidavit of Frederick William Jan. This is also a supporting affidavit to the information and contains wholly irrelevant and immaterial matter, and for that reason is inadmissible. It relates to the facts surrounding the printing work on the financial paper published by the Broad Street Press Limited, and as it is not contended that any misrepresentations were made in said newspapers, the whole of this deposition is immaterial.

505 Document 15. (Page 30) The same objection is made to the affidavit of Philip N. D. Taylor.

Document 16.. (Page 30) The same objection is made to the affidavit of Leslie Williams.

Document 17. (Page 31) Affidavit of Margaret Woollends. This affidavit pertains to wholly irrelevant matter, that is, to-wit:- Affiant identifies a photograph of a person whom she saw about the offices at 2 Broad Street at various times.

Document 18. (Page 31) Affidavit of Florence Farncombe. The same objection is made to this document, which merely recites the fact that the business of the Broad Street Press had moved from one building to another at the expiration of a lease.

Document 19. (Page 32) Affidavit of Leonard Victor Shortlands. The same objection is made to this affidavit, which states also that Guest, Klein, and Green occupied a room marked "Board Room." The fact that they occupied a particular room has no bearing upon the charge of receiving money knowing the same to have been fraudulently obtained, which is here involved, and is wholly irrelevant and immaterial. Affiant also stated that he answered telephone calls, and when calls came for Norman D. Spencer his instructions were to put Spencer's calls to other persons. This statement has no relevancy to any charges of misrepresentations, fraud, or the receipt of money so obtained, and is therefore inadmissible.

Document 20. (Page 33) Affidavit of Ernest Frank West. This affidavit is irrelevant showing nothing further than that said West saw the defendant at the place of business of the Broad Street Press Limited.

506 Document 21. (Page 33) Affidavit of Jane Crawford Cunningham. This is also a supporting affidavit to the information and contains no evidence of anything except the transfer of certain shares in and about the conduct of the business of the Broad Street Press, and has no relation whatsoever to any misrepresentations, fraud, or receipt of money so obtained, has no evidentiary value and is completely irrelevant and immaterial.

Document 22. (Page 34) Affidavit of James Richard French. This is also a supporting affidavit upon which the information was issued, and does not pertain to anything which is relevant to the inquiry, only stating that Guest,

Green and Klein were about the offices of the Broad Street Press Limited.

Document 23. (Page 34) Affidavit of Claud James Matthew Gwatkin. This affidavit is wholly inadmissible in that it is a statement by a clerk in the Department of the Director of Public Prosecutions as to what one English case as to conspiracy to defraud holds. This is not the proper way of proving the law of a foreign jurisdiction. There is no qualification of the witness as an expert, and he does not state what the law is but states what one reported case holds.

507 EXHIBITS.

Exhibit 4. This exhibit contains copies of checks showing payments to H. Wise by Broad Street Press Ltd., and has no relation to the issues here involved.

Exhibit 5. The same is true of this exhibit.

Exhibit 6. The same is also true of this exhibit.

Document 24. (Page 58) This document is the warrant dated December 10, 1930, charging the defendant in Great Britain with the offense of receiving money knowing the same to have been obtained by conspiracy to defraud, and is not admissible in evidence here on a charge of receiving money knowing the same to have been fraudulently obtained, as neither charge is a crime in the State of Illinois.

508 GROUP 3.

Document 1. (Page 62) The further deposition of Claude J. M. Gwatkin. In this affidavit the affiant, who appears to be an assistant prosecutor, and who claims to have had charge of the attempts to certify to the accuracy of the following depositions. It appears that he is not the keeper of these records and hence not a competent person to certify as to the accuracy of the copies.

Document 2. (Page 64) The deposition of Percy John Groom. This document is objected to for the reason that it relates only to the rental of office space by J. Wise and does not contain matter material to any criminal charge.

Document 3. (Page 66) The deposition of Donald Pritchard Nicholls. This document relates solely to the matter of the leasing of a business office and it is objected to for

the reason that it does not contain matter material to the issue here involved.

Document 4. (Page 67) The deposition of Frederick Alfred Longman. This deposition relates to another leasing agreement and is objected to because immaterial.

Document 5. (Page 68) The deposition of David James Horn. This relates to the leasing of offices at Ludgate House by J. Wise and Moncrieff. This affidavit relates solely to a leasing contract made by J. Wise and Moncrieff and is objected to because immaterial and incompetent.

Document 6. (Page 69.) The deposition of William George Hawkins. This deposition states that Newberry was a tenant at 15 Copthall Avenue and is objected to as wholly immaterial.

509 Document 7. (Page 70.) The deposition of Ruth Bemrose. This affidavit is wholly immaterial and does not relate in any wise to the issue here involved.

Document 8. (Page 70.) The deposition of Samual Frederick Roberts. This is the affidavit of an elevator starter who states that he saw J. Wise at 2 Broad Street Place. This is wholly immaterial and therefore incompetent.

Document 9. (Page 71.) The deposition of Robert James Trivett. (2nd affidavit.) This deposition was made by a servant who states that he knew Klein and Factor and he says that at one time Factor, whom he knew as Fraser, told him that his name was Factor. This deposition is objected to as incompetent and immaterial. This document is a repetition of Document 12 (Page 29) Group 1.

Document 10. (Page 71.) The deposition of Richard Hayden Guest. This affiant states that he underwrote a stock issue for Klein and that later Klein sublet offices from him. He identifies photographs. Beyond the fact of identification of the photographs the deposition is objected to as incompetent and immaterial.

Document 11. (Page 73.) The deposition of Hubert Stanley Hohne. This affiant states that he is an engineer and a financial negotiator. He states that Klein gave H. Wise as a financial reference. He also states that Klein leased some offices from him and that eventually a dispute arose and that Klein brought suit against him. This deposition is objected to as immaterial and incompetent.

510 Document 12. (Page 75.) The deposition of Ralph Massey. This affiant states that he is an official in the

office of the Registrar of Companies. He gives the names of the incorporators of the Broad Street Press, Ltd. and states that the company is now in process of liquidation. This deposition is objected to as wholly immaterial.

Document 13. (Page 76.) The deposition of Ralph Massey, (Recalled.) He makes statements with reference to Copthall Securities Company and Threadneedle Securities, Ltd., which are objected to as immaterial. He then states the particulars of the incorporation of the Rhodesia Border Mining Corporation, and that it is in process of liquidation. He gives the same information with reference to Vulcan Copper Mines, Ltd., and T. W. Webb & Company, Ltd., except that he does not state that T. W. Webb & Company, Ltd., is in process of liquidation. He also produces the file of the Sunbeam Press Work and Conveyors, Ltd., and states that a receiver has been appointed for that company. He states the same with reference to Throgmorton Press, Ltd. The deposition is objected to in its entirety as incompetent and immaterial except as it relates to the Rhodesia and Vulcan companies.

Document 14. (Page 81.) The deposition of Quertier Le Pelley. He states that he is the registrar of certain corporations. His deposition relates to Permanent Investments, Ltd. and Pretoria Mining Estates Co., Ltd. Apparently the incorporators of the Permanent Investments Company were Newbury and one other. He states that there is no record showing the ownership by the Permanent Investments Company of any property in South Africa. He further states
511 that there are no documents on file showing that the Pretoria Company owned any property in Africa or transferred any to the Rhodesia Company. This deposition is objected to for the reason that subsequent depositions established the fact that the Permanent Investments Company and the Pretoria Company both owned property in South Africa, and further that it is not competent evidence as to whether any property was actually owned.

Document 15. (Page 83.) The deposition of Arthur George Ashby. He states that he is secretary for the committee of new issues on the London Stock Exchange and he states that no application was ever made to list the shares of Asbestos & Holdings Trust, Ltd., or Vulcan Copper Mines, Ltd., or of Rhodesian Border Mining Corporation, Ltd. on the London Stock Exchange. This deposition is objected to as immaterial.

Document 16. (Page 84.) The deposition of Frederick Francis Sharles. This affiant is secretary of Fishers Foils, Ltd. He states that Klein was the owner of a large block of shares in this company, paid by check drawn on the account of H. Wise. He identifies several exhibits. Inasmuch as it appears that this was a going company and that Klein bought shares in it, it is submitted that the deposition is wholly immaterial to the issues here involved.

Document 17. (Page 86.) The deposition of John Williams. He states that he is chairman of Fishers Foils, Ltd. His testimony relates solely to an offer on the part of Klein and Elman to buy stock in that company and is objected to as wholly immaterial.

512 Document 18. (Page 87.) The deposition of Frederick Henry Manning. He states that Klein bought a block of shares in Sunbeam Press-Work and Conveyors, Ltd. and that thereafter the stock became very active. This deposition is entirely immaterial and is objected to for that reason.

Document 19. (Page 89.) The deposition of Reginald Harrington Brett. This affiant states that he is secretary of T. W. Webb & Company. He states that he knew Newbury. He identifies certain exhibits. Apparently he handled the money for T. W. Webb & Company in the purchase of the stock from the Pretoria Mining Company and he states that he received £33,000 for the stock from Elman. There is nothing in this deposition which relates to anybody except Newbury and Elman, and it is objected to as immaterial and incompetent.

Document 20. (Page 93.) The deposition of Cyril Thomas Newman. This affiant states that he is employed by the Official Receiver. He discusses first the affairs of the Vulcan Copper Mines, Ltd. stating that the company had to its credit at the time the receiver took charge £28,303.2.9, also an *unknown amount* on deposit in a Bank in Africa. He also produces a contract between Permanent Investments, Ltd. and Vulcan Copper Mines, Ltd. for sale to the Vulcan Company of *mineral rights* in Rhodesia. He states that Broad Street Press bought 66,000 shares of Vulcan Copper stock for £33,000. He states that under the contract between Permanent Investments and Vulcan, Vulcan was to pay a total of £512,000 for the property in Africa. He states that Broad Street Press sold 1,273,643 shares of the Vulcan Company stock. The only objection to this deposition is that the rec-

ords themselves would be the best evidence of the matters
513 therein contained. He also states that the actual financial status of the Vulcan Company shows interest in a mine in Rhodesia, cash approximately £28,000 and liabilities of £6,000. In regard to Broad Street Press, he states that the company is now in the hands of liquidators and he introduces the bank book of the company. He states that the directors took no part in the affairs of the company which is obviously hearsay and a conclusion. The latter half of the deposition is objected to as immaterial and not the best evidence obtainable as to the matters therein contained. The chief objection to this deposition is that it is made up entirely of the conclusions of the examiner drawn from an examination of certain records which are not produced, and it is in no fashion admissible or material to the issue here involved.

Document 21. (Page 112.) The deposition of Joseph Wallis Hill. This relates to the winding up of Rhodesian Border Mining Corporation. In this deposition the affiant states that the Pretoria Company sold its mining rights to the Rhodesian Company and that H. Wise bought the whole of the vendors shares from the Pretoria Company for the price of £33,000, and that this money was paid into the Company's bank account. The deposition states "apart from that agreement (of sale) I have found *no documents* of any kind as to the existence of those properties in Africa or shewing that such properties were owned by the company." The deposition contains nothing but hearsay, is not the best evidence and is immaterial, and is objected to for these reasons.

Document 22. (Page 115.) The deposition of Albert Simon Joseph Osborne. This affiant states that he is a
514 brokers clerk. That he met Walker who asked him to become a director of the Broad Street Company. He states that his duties consisted in the signing of checks although he was named as the editor of the newspaper. He says that he frequently saw Walker at the office of the company and that Walker told him the company was dealing in stocks. The substance of the deposition is that although he was a director of the company he knew nothing at all of its affairs, which we submit is not unusual and certainly not criminal. For the reason that the affiant expressly states that he did not know anything at all about the affairs of the company the deposition is objected to as incompetent and immaterial.

Document 23. (Page 121.) The deposition of Albert Paris. This affiant is likewise one of the directors of the Broad Street Press. He likewise appears to have been an uninformed director and he states that Walker attended the meetings of the company but that he knew nothing of its business. It is submitted that his deposition is incompetent as being largely a hearsay narrative.

Document 24. (Page 123.) The deposition of Alfred Percy Sprange. He states that he was a director of the Vulcan Company and was asked to become one by Newbury. He apparently knew little of the business of the company, but states that he knew of the sale of mining property by Permanent Investments Co. to the Vulcan Company, and by Pretoria Mining Estates Co. to the Rhodesia Border Mining Corporation. This is a long narrative but contains little or nothing of importance here and is objected to as incompetent and immaterial.

515 Document 25. (Page 128.) Deposition of Alfred Henry Bonnard. This affiant states that he is a Commission Agent in mining properties. He states that he has known Newbury for twenty years; and that in March, 1930, he conversed with Newbury about some property in Rhodesia, and that Newbury requested him to become a director of the Vulcan Copper Mines, Ltd. a company which Newbury was forming. He also says that he knew nothing of the business of the Vulcan Company. Objected to as being entirely immaterial.

Document 26. (Page 133.) The deposition of Arthur Frederick Smith. This affiant states that he was a director of T. W. Webb & Company and occasionally signed checks. This deposition is objected to as being entirely immaterial.

Document 27. (Page 135.) Affidavit of Jesse Hill. Affiant states that he had known Newbery for five years, and that he became a director of the Rhodesia Border Mining Corporation. He states who the other directors were, and that two of the directors were residents of Buluwayo, South Africa. Affiant discusses some meetings, the minutes of which are in the minute book of the Rhodesia Border Mining Corporation and attempts to challenge the accuracy thereof by oral testimony. What the affiant says amounts to no more than that he was not present at certain meetings, but signed the minutes thereof as having so been. Minutes of a meeting are controlling and cannot be challenged by oral testimony, and

his statements concerning said meetings are therefore wholly inadmissible. Affiant states that he saw reports on the properties in South Africa but never saw any title papers.
516 It is submitted that whether or not he saw title papers is entirely immaterial. Affiant further states that beyond the matters mentioned he had no knowledge of the affairs of the company. Affiant states that he saw the check for £33,000 given to the Rhodesia Company by the Broad Street Press in payment for certain shares of stock. In addition to the objections heretofore mentioned, the whole of said deposition contains matter which is entirely immaterial and irrelevant to the issues herein involved, and is therefore inadmissible as evidence.

Document 28. (Page 136.) The deposition of Harry Brignell. Affiant states that he knew Newbury for four years and became a director of the Rhodesia Border Mining Corporation Limited at the request of his brother who works in some office with Newbury; that he saw papers relating to the properties in South Africa belonging to the Rhodesia Border Mining Corporation, and that he was not very active in the affairs of the company. Affiant attempts to vary the contents of the written minutes of the meeting contained in the record books of the Rhodesia Border Mining Corporation, and we submit that written records and reports cannot be varied by oral evidence, and for this reason all remarks in relation to said minutes are inadmissible. In addition to this objection the whole of the deposition relates to matters which are wholly immaterial and irrelevant to the issue here involved, and is therefore inadmissible.

Document 29. (Page 138.) Affidavit of Thomas Capey Benoy. Affiant states that he is an accountant and that at the request of one of the directors he became secretary of Rhodesia Border Mining Corporation. He knew this director for eight years as being employed by the African Con-
517 struction Corporation. Affiant made application for registration of the company; states that the minutes of the meetings were prepared the affiant thinks by Mr. Leme; that he upon instruction signed certificates and transacted such other business of the company as came to his attention; and that he made up statements of affairs of the Rhodesia and Vulcan companies. We submit that the whole of said deposition concerning the Rhodesia and Vulcan companies is wholly immaterial to the issue here involved and therefore irrelevant and inadmissible.

EXHIBITS.

Exhibit 1. Letter addressed to Groom concerning leasing of offices in Broad Street Building. Objected to as immaterial.

Exhibit 2. Letter addressed to J. Wise accepting offer for leasing of office in building at No. 2 Broad Street. Objected to as immaterial.

Exhibit 3. Letter written by J. Wise to Groom concerning transfer of the Wise lease to Broad Street Press. Objected to as immaterial.

Exhibit 4. Concerns lease of 2 Broad Street Building. Letter addressed to Groom by Broad Street Press, ratifying transfer of lease from J. Wise. Objected to as immaterial.

Exhibit 7. Letter addressed by Elman recommending J. Wise as tenant. Objected to as immaterial.

Exhibit 9. Letter addressed to J. Wise concerning terms of lease. Objected to as immaterial.

518 Exhibit 10. Letter written by J. Wise offering to lease the premises at No. 1-4 Broad Street Place, never occupied by Broad Street Press. Objected to as immaterial.

Exhibit 11. Letter concerning terms of lease on No. 1-4 Broad Street Place addressed to J. Wise. Objected to as immaterial.

Exhibit 13. Letter written by Elman recommending J. Wise as a tenant at 1-4 Broad Street Place, never occupied by Broad Street Press. Objected to as immaterial.

Exhibit 14. Letter written by J. Wise asking to be released from the unexpired term of his own lease at No. 1-4 Broad Street Place, never occupied by Broad Street Press. Objected to as immaterial.

Exhibit 18. Letter from Max Gerson asking the release of A. J. Klein from his own unexpired lease at 42 Cornhill E. C. 4. Objected to as immaterial.

Exhibit 19. Letter from renting agents to Max Gerson agreeing to the cancellation of lease requested in Exhibit 18. Objected to as immaterial.

Exhibit 21. Letter recommending J. Wise as a tenant, at some unnamed address, signed by Elman. Objected to as immaterial.

Exhibit 24. Letter addressed to Klein (unsigned) complaining about nonfulfillment of terms of Klein's lease, apparently at 14 Copthall Avenue, Klein's personal office. Objected to as immaterial.

Exhibit 29. Record of the listing of the stock of certain corporations on the London Stock Exchange. Objected to as immaterial.

Exhibit 30. Letter addressed by broker to Fishers Foils, Ltd. requesting permission to examine the company. Has
519 no bearing on this case and is objected to as immaterial.

Exhibit 31. Reply to Exhibit 30. Objected to as immaterial.

Exhibit 32. Answer to Exhibit 31 by brokers. Objected to as immaterial.

Exhibit 33. Letter from Fisher's Foils, Ltd. suggesting a meeting date between the prospective purchasers and the Fisher's Foils, Ltd. Objected to as immaterial.

Exhibit 34. Letter from brokers to Fisher's Foils, Ltd. regarding date of meeting. Objected to as immaterial.

Exhibit 35. Letter to brokers from Fishers' Foils, Ltd. referring to examination by brokers of offers of that company. Objected to as immaterial.

Exhibit 36. Letter from brokers to Fishers' Foils, Ltd. on same subject. Objected to as immaterial.

Exhibit 37. Letter from Elman to Fishers' Foils, Ltd. offering to sell his stock to other stockholders of Fisher's Foils. Objected to as immaterial.

Exhibit 38. Letter from Elman concerning same subject matter. Objected to as immaterial.

Exhibit 39. Letter written by Elman to Fisher's Foils requesting an explanation of the affairs of the company. Objected to as immaterial.

Exhibit 40. Circular letter written by Fisher's Foils to its stockholders. Objected to as immaterial.

Exhibit 41. Letter written by Elman offering to sell shares in Fisher's Foils, Ltd. to other shareholders in that company. Objected to as immaterial.

520 Exhibit 42. Letter from Fisher's Foils, Ltd. addressed to Elman, requesting information concerning Elman holdings in that company. Objected to as immaterial.

Exhibit 43. Answer of Elman to Exhibit 42. Objected to as immaterial.

Exhibit 51. Letter addressed to H. Wise by T. W. Webb & Co. selling to H. Wise 1,176,000 fully paid shares Rhodesia Border Mining Corporation, Ltd. stock of the par value of 10 shillings each for £33,000, receipt of this sum being acknowledged in the letter. These shares were purchased from

T. W. Webb and Co. brokers and no indication is given as to source of shares.

Exhibit 52. Letter addressed to T. W. Webb & Co. by Newbury for Pretoria Company authorizing the deduction of £4,000 as commission, the sale referred to in Exhibit 51 and making same payable to Elman for negotiating said sale. Objected to as immaterial.

Exhibit 53. Agreement by T. W. Webb & Company to deliver stock in Rhodesia Company to H. Wise. Objected to as immaterial.

Exhibit 54. Letter written by T. W. Webb & Co. to Elman agreeing to pay Elman £4000 commission on sale referred to in Exhibit 51. Objected to as immaterial.

Exhibit 55. Receipt of Elman for the £4000. Objected to as immaterial.

Exhibit 57. Check on Barclay's Bank signed by Vulcan Copper Mines, Ltd., for £830 payable to A. Klein. Has no relevancy and is objected to as incompetent and immaterial.

Exhibit 59. Letter addressed to Vulcan Copper Mines, Ltd. by Alex Fraser written from Rhodesia asking information about the affairs of the company. Objected to as immaterial and incompetent.

521 Exhibit 60. Check to Vulcan Copper Mines, Ltd. for £33,000 signed by Broad Street Press. Objected to as immaterial.

Exhibit 61. This is a letter addressed to the Vulcan Copper Mines, Ltd. by the Permanent Investments Limited nominating the Broad Street Press Ltd. to receive one million vendors shares allotted to Permanent Investments Limited by Vulcan Copper Mines Ltd., being a part of the purchase price paid by Vulcan for the property of Permanent Investments. Objected to as immaterial.

Exhibit 62. Check drawn on Midland Bank Limited by Broad Street Press Ltd. payable to Permanent Investments Ltd. for £33,000 being for vendors shares of the Vulcan Copper Mines owned by Permanent Investments Ltd. and allotted to Broad Street Press, which Permanent Investments received for properties sold to Vulcan Copper Mines. Objected to as immaterial.

Exhibit 65. Bill sent to Broad Street Press by Elman for £250 for services in libel suit brought by Broad Street Press against Truth Publishing Co. Objected to as immaterial and incompetent.

Exhibit 66. Letter from Elman to Official Receiver of Broad Street Press Ltd. outlining the formal steps taken in the incorporation of the Broad Street Press, Ltd. Objected to as being irrelevant and immaterial.

Exhibit 67. Letter from Elman to Official Receiver of Broad Street Press, Ltd. explaining the fact that the payment of £100 was for the costs of incorporation of the Broad Street Press Ltd. Objected to as being irrelevant and imma-
522 terial.

Exhibit 68. Check dated September 26, 1928, payable to J. Walker for £518 signed by Broad Street Press. Objected to as immaterial.

Exhibit 68 (Cont.). Check for £957, dated September 26, 1928, to the same payee by same payor. Check for £1250 paid September 28, 1928, same payee and payor; check for £520, paid October 12, 1928, same payee and payor; check for £25, paid October 12, 1928, same payee and payor; check for £125 drawn by Broad Street Press payable to "Cash," paid October 12, 1928. All objected to as immaterial.

Exhibit 69. Two checks paid October 30, 1928, drawn by Broad Street Press for £154.2.11 and £143.1.6, respectively, and payable to "Cash." Objected to as immaterial.

Exhibit 70. Check payable to H. J. Spellen for £6000 signed by Broad Street Press, paid July 24, 1930. Objected to as immaterial.

Exhibit 76. Receipt for £50,000 principal amount of war bonds signed by Augustus Young. Receipt signed by Augustus Young for £5,000 principal amount war bonds. Receipt of Spellen for £5,000 war bonds. None of these receipts are addressed to anyone. All objected to as immaterial.

Exhibit 77. Letter from Augustus Young, broker, to H. J. Spellen reciting details of certain stock transactions. This letter is unintelligible and clearly does not relate to any matter in controversy here, and is objected to as incompetent, immaterial and irrelevant.

Exhibit 84. Receipts from Augustus Young to H. Guest for £20,000 and £15,000 War Bonds respectively. Objected to as immaterial.

523 Exhibit 85. This is a list of the checks paid by Broad Street Press to H. Geen showing a total paid to H. Geen of £1402.15. This exhibit is objected to as being incompetent and immaterial.

Exhibit 88. This is a statement of account between Broad

Street Press and Arthur J. Klein showing payments of a total to Klein of £86,959.5.3. Objected to as being incompetent and immaterial.

Exhibit 90. Receipt of Augustus Young addressed to J. Klein for 4500 shares Radio Corporation of America. Objected to as immaterial.

Exhibit 98. Statement of receipts of Broad Street Press for the year 1930. Objected to as immaterial.

Exhibit 102. This is a statement given to comply with the Companies Act of 1929. It recites that the capital of Asbestos and Holdings Trust Ltd. is £250,000, in one million shares of 5/- each fully paid of which number 646,007 shares are issued. It recites that the Company is registered in Salisbury, Southern Rhodesia; that the property of the company consists of certain mining claims in Southern Africa; that there are no outstanding debentures of the company, and that no application has been made to any stock exchange to deal in the shares. This statement is signed by Broad Street Press Ltd. Objected to as incompetent, irrelevant and immaterial.

Exhibit 103. This is a statement given by the Rhodesia Border Mining Corporation Ltd. to comply with the Companies Act of 1898. It recites that the company was registered July 22, 1930, in Africa; that the property of the company consists of copper areas of the total of 150 acres, and that the copper contents is 7% to 8% per ton of ore. That is a
524 circular sent to Broad Street Press by the Rhodesia Company, and is objected to as incompetent, irrelevant and immaterial.

Exhibit 104. This is a statement given to the Broad Street Press by the Vulcan Copper Mines Company to comply with the Companies Act of 1929. It recites that the Vulcan Copper Mines Limited owns property consisting of three copper mines in Southwestern Africa; that there are no debentures, and that no application has been made to deal in shares of the company in any stock exchange. This statement was made to Broad Street Press Limited by the Vulcan Copper Mines Limited, and is objected to as incompetent, irrelevant and immaterial.

Exhibit 105. This is a letter on the head of Finance and Stock Exchange Observer which on its face seems to be addressed to John M. Maxwell, and which is not identified in the depositions as ever having been received by Maxwell or any one else or to have been posted. It refers to some unnamed

shares which have no connection with any of the stock issues here complained of, and with which Broad Street Press obviously had nothing to do. This is not competent evidence and the matters and things contained in said letter are wholly irrelevant and immaterial.

Exhibit 106. Letter addressed to W. Lenton, but not identified as ever having been received by W. Lenton and signed by Norman D. Spencer, stating that he understood that an unnamed issue of stock might shortly be listed on the London Stock Exchange. W. Lenton had made no deposition complaining about any dealings with Norman D. Spencer, and the letter is not identified as ever having been received or as even having been mailed by any one whatsoever, and is not
525 pertinent to any issue here involved. This letter is wholly inadmissible as evidence and the matters therein contained are wholly irrelevant and immaterial.

Exhibit 107. Letter written on letterhead of Finance and Stock Exchange Observer purporting to be addressed to Mr. John M. Maxwell concerning purchase of 600 shares of Asbestos & Holdings Trust Ltd., a stock about which no complaint is made in the depositions; not shown to have been received by Maxwell or even mailed to him; and pertains to matters and things not here in controversy and is wholly inadmissible because not properly identified and the contents thereof are irrelevant and immaterial.

Exhibit 110. Identified by Newman in the deposition as being a "circular letter;" is not identified as having been received by anyone or as having been sent to anyone, and is wholly inadmissible for this reason. The so-called "Circular" does not purport to disclose any issue of stock of which complaint is made, and in addition to being inadmissible for the reasons above stated, its contents are wholly irrelevant and immaterial, and should be rejected for that reason.

Exhibit 115. A schedule of payments made to H. Wise by Broad Street Press between June 13th and October 27th, 1930, and should not be admitted because irrelevant and immaterial. It is further to be observed that this schedule of payment is a list made up from the cash book, and is inadmissible as not being the best evidence, the cash book being available and the best evidence to show the payments made.

526 Exhibit 116. A letter to Burnett L. Elman from T. W. Webb & Co. Ltd. agreeing to pay for some legal services that he had rendered in connection with the Rhodesia Border Mining Corporation, Ltd. This is wholly irrelevant and incompetent, and for that reason inadmissible.

Exhibit 117. A check of Broad Street Press, Ltd., to H. J. Spellen for £245, not identified in any way as having any bearing upon any issue here involved, and is wholly irrelevant, incompetent and immaterial.

Exhibit 118. Check payable to cash of Broad Street Press, Ltd., not identified in any way and has no relevancy or materiality to any of the issues here involved, and is therefore inadmissible.

Exhibit 120. Check dated October 15, 1930, to the order of cash drawn on the account of H. Wise, signed Arthur J. Klein, for £6000. Objected to as immaterial.

Exhibit 121. Check drawn on June 17, 1930, by same maker, in the sum of £500. Objected to as immaterial.

Exhibit 122. Check dated June 30, 1930, drawn by same maker, payable to cash for £500. Objected to as immaterial.

Exhibit 123. Check dated February 21, 1930, drawn by same maker payable to cash in the sum of £720. Objected to as immaterial.

Exhibit 126. Check dated July 7th, 1930, made payable to cash drawn by H. Wise, in the sum of £15,000. This check is objected to as being wholly irrelevant and immaterial to the issues here involved.

527 Exhibit 134. Letter from the Pretoria Company to the Rhodesia Company extending the date of completion of the contract for the purchase of the mineral properties for two months from October 31, 1930. This letter is evidence of the fact that Rhodesia purchased the mineral properties but is immaterial to the issues here involved.

Exhibit 135. Reply to Exhibit 134 agreeing to the terms thereof by the Rhodesia Company, and although further evidence of the fact that Rhodesia purchased properties is immaterial.

Exhibit 136. Being a nomination by the Pretoria Company of the Broad Street Press to receive the vendors shares allotted to the Pretoria Company as a part of the contracted purchase for mineral properties. Explains purchase by Broad Street Press of shares, but is immaterial to issues here involved.

Exhibit 137. Letter addressed to Broad Street Press by Rhodesia Company agreeing to a further allotment of shares. Objected to as immaterial.

Exhibit 138. Application of Broad Street Press for 66,000 shares of Rhodesia for which was enclosed £33,000. Shows good faith purchase of stock which was paid for, but is immaterial.

GROUP 4.

528 Document 1 (page 211). The deposition of C. J. M. Gwatkin. Objected to for the reason that it purports to be a certificate of the correctness of the copies of certain depositions; the said Gwatkin appearing to be an assistant prosecutor and not in charge of the records and hence incompetent to certify as to their accuracy.

Document 2 (Page 213). The desposition of Reginald Harrington Brett. This deposition is objected to as wholly immaterial, having to do with the payment of money to Newbury by Klein for some undisclosed purpose.

Document 3 (Page 213). The deposition of Cyril Thomas Newman. This deposition consists of the identification of several exhibits and the deposition is objected to as irrelevant and immaterial.

Document 4 (Page 214). The deposition of Alfred Percy Sprange. Objected to as immaterial. Affiant also seeks to impeach a written record by parole and deposition is therefore incompetent.

Document 5 (Page 215). The deposition of Arthur John Aldis. This deposition relates wholly to Newbury and recites that the affiant was employed as a transfer agent for the Vulcan Company. Objected to as immaterial and incompetent.

Document 6 (Page 216). The deposition of Edward Andrew Stirling. This affiant testifies that he was a director of the African Construction Company at the request of Newbury. Nothing appears in the affidavit material to the question involved here and it is objected to for that reason. Deposition shows receipt by Vulcan of £33,000 for shares from Broad Street Press, but whole of said deposition pertains to the business of Vulcan and is in no wise material to the issues
529 here involved.

Document 7 (Page 221). The deposition of Sidney Brignell. This deposition relates wholly to the connection

of Newbury with the various copper companies and it contains no matter pertainent to this transaction. Apparently this affiant was another director who took little part in the actual conduct of the affairs of his company, the Mezzanine Syndicate, and all of the references contained in the affidavit relate to Newbury and Companies he was interested in (not Broad Street Press). Affiant evidently issued stock certificates of various companies when purchased from owners, the Broad Street Press. Deposition also shows £33,000 received by Vulcan Company from Broad Street Press for shares. The whole deposition is immaterial, however, and is objected to for that reason.

Document 8. (Page 227.) The deposition of Reginald Devey. This affiant identifies £28,000 draft paid to Pretoria. Does not show who drew draft, and exhibit 167 referred to seems to intentionally neglect to give this important information. Objected to as immaterial.

Document 9. (Page 227.) The deposition of Anthony Edgar Somers. This affidavit relates to the formation of the Copthall Securities, Ltd., and contains no matter material to this transaction and it is objected to as immaterial and incompetent.

Document 10. (Page 228.) The deposition of Richard Oliver Mitchell. This deposition relates wholly to the dealings of Klein in Fisher's Foils, Ltd., and is objected to as incompetent and immaterial.

Document 11. (Page 228.) The deposition of George Albert Woodley. This document serves only to identify Exhibit 41 and is objected to for the same reasons assigned as objections to the introduction of Exhibit 41.

530 Document 12. (Page 229.) The deposition of Frederick Henry Manning. This deposition is entirely devoted to the identification of certain exhibits which relate to purchases by Klein of shares of stock in the Sunbeam Press Work Company and the deposition is objected to for the reason that the exhibits therein identified are wholly immaterial.

Document 13. (Page 230.) The deposition of Agnes Madeleine Penn. This affiant states that she is a typist occasionally employed by T. W. Webb & Co. She says that she occasionally worked for Newbury. Affiant also refers to Exhibit 56—said exhibit is not included and any statements concerning same are incompetent. There is nothing in this affidavit

material to this transaction and it is objected to for this reason.

Document 14. (Page 231.) The deposition of Jose De Camara Leme. This affiant says that he is an engineer and a clerk sometimes employed by Newbury and that he wrote the minutes of several companies not named, referred to as Minute Book Exhibit 133. There is no Exhibit 133 included in the record, and any statements concerning same are incompetent. The whole of this document is objected to as immaterial.

Document 15. (Page 232.) The second deposition of Frederick William Jan. This affiant states that he is a printer and that he arranged for the printing of the financial weekly known as "City News" and later as "Finance." He says that he on rare occasions saw Walker and Klein in the office of Broad Street Press Ltd. Objected to as immaterial.

Document 16. (Page 233.) The second deposition of Leslie Williams. This affiant is likewise a printer and for a time his concern printed a financial paper. He says that he
531 saw Walker there, saw Klein and Spellen. He never met Norman D. Spencer or A. S. J. Osborn. He knew Spellen as a journalist and called to see the sub-editor, Mr. Detrez. No misrepresentations are alleged to have been made in the paper and the affidavit as a whole is objected to as immaterial.

Document 17. (Page 237.) The second deposition of Margaret Woollends. This affiant says she was engaged as a bookkeeper at No. 2 Broad Street Buildings. States that she saw Walker, Moncrieff, Elman and Spellen there. She states that Spellen appeared to be the manager. Objected to as immaterial.

Document 18. (Page 238.) The second deposition of Leonard Victor Shortlands. Affiant states that he is a clerk. Was employed by Broad Street Press. One of his duties was to answer the telephone. Says that he saw Mr. Guest there; and that Guest and Green interviewed people who called at the office. States that he put Spencer's calls to Board Room. Objected to as immaterial.

Document 19. (Page 239.) Deposition of Arthur Clabburn Detrez. Affiant states that he is a journalist and was told by Walker that he wishes to establish a new financial paper. Apparently this man was connected with the publication of the financial newspaper and prepared the investment notes

section of the paper. States he was responsible for the "investment notes," "money market" and "new issues," and that he received his instructions mainly from Spellen. From affidavit it is apparent he did not have offices at Broad Street Press. Says he never met Norman D. Spencer, and that he did some of the work in compiling the book "Stock Exchange, Its Methods and Practice." He says that Walker ap-
532 peared to be quite familiar with financial newspapers. No misrepresentations are claimed to have been made in the paper and the whole deposition is objected to as immaterial.

Document 20. (Page 244.) The deposition of Stanley Grove Spiro. Affiant says he met Walker and also knew him as Jack Factor and as Guest. He says that Newbury, who is a friend of his, stated that he did not want to do business with Walker because they had quarreled. He (the affiant) was interested in South African mining properties and that Walker asked him if he had any good South African copper properties for sale. States that he did not have any for sale but suggested that Newbury did have some. He arranged an appointment between Walker and Newbury and that he arranged the details of the payment to Newbury's company by the Vulcan Company. This affidavit contains a description of a transaction between Elman and affiant and Newbury with relation to the Pretoria Company by means whereof the assets of the Pretoria Company were to be sold. This affidavit is objected to as immaterial although it does show that the transaction was entered into in good faith as far as the defendant Factor was concerned.

Document 21. (Page 248.) The deposition of Frederick William Duffill. This affidavit relates solely to the dealings of Klein in certain shares of stock other than the ones involved herein and contains no matter relevant to the charge here. It is objected to as incompetent and immaterial.

Document 22. (Page 250.) The deposition of Thomas Goulton Leonard. Affiant states that he is a stock broker and he identifies Exhibits 181 and 182, being letters exchanged with Elman. Objected to as immaterial as relating to Sunbeam Shares which are not involved in this case.

533 Document 23. (Page 251.) The deposition of Wilfred John King. Affiant states that he is a clerk employed by Augustus Young, stock broker, as bookkeeper. States that

H. Wise opened an account with Young in November, 1928. Identifies Exhibit 184, the personal account of H. Guest, and Exhibit 185, the personal account of A. J. Klein (neither of which exhibits are included in the record). Identifies Exhibit 186, the account of the Broad Street Press, Ltd. (also not included in record). States that all these accounts related to securities quoted on the Stock Exchange. He describes in some detail a series of legitimate transactions and the deposition is objected to as immaterial to this transaction.

Document 24. (Page 253.) The second deposition of Augustus Young. Affiant states that he is a stock broker; that he knew H. Wise as a financier and that he did a large amount of legitimate business with H. Wise and with A. J. Klein, whom he understood to be an outside broker. Objected to as immaterial.

Document 25. (Page 254.) The deposition of William Harold Brett. This affiant states that he is stock broker and that he gave Klein the names of several country brokers for the purpose of having them sell stock in West African Diamond Mines, which he was satisfied were reputable. These shares are not involved here and the whole deposition is objected to as entirely immaterial.

Document 26. (Page 256.) The deposition of Russell Sidebotham. Affiant states that he is a member of the London Stock Exchange and recites in some detail a number of financial transactions in 1929 in listed shares. He states that in 1930 Klein asked him if he could buy for him (Klein) a line of shares in a reputable mining company, Klein did a very extensive stock exchange business. Klein arranged to pur-
534 chase shares from this concern but the transaction was not completed. Objected to as entirely immaterial.

Document 27. (Page 258.) The deposition of Ernest Frank West. Affiant states that he is a broker's clerk, that he was engaged by Spellen to work in connection with the share department of Broad Street Press. States that Guest was frequently in the offices. States that early in 1930 they were selling shares in Asbestos & Holding Trust, Ltd. That later they dealt in Edison Bell and that later clients were advised to buy Vulcan Copper stock. No facts of recommendation are given and these statements are conclusions. This man handled the book entries in connection with the issuance of these shares. He described in some detail the procedure followed in the conduct of the share department of

Broad Street Press and the entire deposition is descriptive only, does not contain any evidence of misrepresentation or criminality, and is objected to for the reason that it is wholly immaterial and irrelevant.

Document 28. (Page 264.) The deposition of Thomas Harvey Acklan. Affiant identifies Exhibit 202. This affidavit is objected to for the reason assigned as regards the exhibit.

EXHIBITS.

535 Exhibit 51. This is a second insertion of this exhibit. Letter from T. W. Webb & Company addressed to H. Wise, selling to H. Wise 1,176,000 shares of stock in the Rhodesia Border Mining Corporation, Ltd., for £33,000.

Exhibit 52. This is a second insertion of this exhibit. Letter addressed to T. W. Webb & Company by Newbury directing the payment to Elman of the sum of £4000. Objected to as immaterial.

Exhibit 53. This is a second insertion of this exhibit, which is a letter written by T. W. Webb & Company addressed to He. Wise, agreeing to deliver the shares in the Rhodesia Company. Objected to as immaterial.

Exhibit 54. Second insertion of this Exhibit. This Exhibit has no relevancy to the issues here involved, being a letter forwarding payment of legal fee to Burnett L. Elman by T. W. Webb & Co., Ltd.

Exhibit 55. This is a second insertion of this Exhibit. Objected to as wholly immaterial and irrelevant.

Exhibit 60. A second insertion of this Exhibit. Although showing payment to Vulcan of £33,000 by Broad Street Press, it is immaterial and objected to for that reason.

536 Exhibit 148. This exhibit has no relevancy to the matters in question, being only a check from Arthur Klein to T. W. Webb & Co. This check is nowhere explained as having any bearing on the issues here involved, and is objected to as immaterial.

Exhibit 149. This is a check from T. W. Webb & Co. to cash which is not explained or identified as having any bearing on any issue here involved, and is objected to as being wholly irrelevant and immaterial.

Exhibits 150, 151, 152, 153 and 154. These Exhibits are checks of the Broad Street Press Limited to various payees,

having no connection with the charge here involved and are consequently irrelevant.

Exhibit 155. This is a resolution of the Vulcan Copper Mines providing a change in the memorandum of the company and has no bearing on the issues here involved.

Exhibit 156. This Exhibit is wholly inadmissible as a complaint of some one connected with the Vulcan Copper Mines to Mr. Newbery as to certain rumors he heard concerning the Vulcan Copper Company, and is entirely irrelevant.

Exhibit 157. Although showing the purchase and sale of shares of Vulcan Copper Mines stock to the Broad Street Press and the receipt of a payment of £33,000 therefor, this exhibit has no evidentiary value to sustain or disprove any charges against the defendant, and is therefore irrelevant.

Exhibit 157. (Cont'd. Pages 281-299.) This is merely a series of letters (eighteen in number) from Vulcan Copper Mines, Ltd., to Broad Street Press stating that they have allotted certain shares of stock as per their request, and are delivering the same to them. Objected to as wholly irrelevant. Also a letter enclosing check for £3,300 commis-
537 sion as previously agreed in and by letter of July 3, 1930 (Exhibit 157). Objected to as wholly irrelevant and immaterial.

Exhibit 158. Letter dated June 30, 1930, to Broad Street Press by Vulcan Copper Mines, and option on 134,000 shares Vulcan Copper Mines stock at 10 shillings each, provided Broad Street subscribes to 66,000 shares at 10 shillings each. Objected to as irrelevant and immaterial.

Exhibit 159. This is a cablegram sent from Fraser, one of the directors in South Africa, to the office of Newbery giving him particulars of the incorporation and registration of Vulcan Copper Mines, and shows the regularity of the organization of the Vulcan Company, which is wholly irrelevant to any issue here involved.

Exhibit 160. This is a direction of Newbery to Vulcan that Klein is to receive the money which Newbery states Klein had advanced in the registration expenses of the Vulcan Copper Mines Ltd. and seems to be wholly irrelevant.

Exhibit 162. Check payable to cash by Vulcan Copper Mines for £200. Not identified as having any bearing on any issue here involved, and is wholly immaterial and irrelevant. Objected to for those reasons.

Exhibit 163, and Exhibit 164. Inquiry to and an unsigned reply thereto. Although showing a report by some one that Vulcan Copper Mines had valuable mineral rights in South Africa, these Exhibits seem to have no bearing on the issues here presented, and are objected to as immaterial.

538 Exhibits 165 and 166. Letter of shareholder inquiring of Vulcan the date of the issuance of his certificate, and an unsigned reply thereto giving the information requested. Objected to as irrelevant and immaterial.

Exhibit 167. This is a check in the sum of £28,000 dated August 25, 1930, payable to Pretoria Mining Estates, but the copy of the exhibit seemingly has wilfully neglected to include the name of the maker. This check is not even identified (deposition of Reginald Devey, Page 227) to show who was the maker of the check, and although in all probability it is a payment by Broad Street Press for vendors shares of Rhodesia Border Mining Company to Pretoria Mining Estates, the vendor of the mining properties to Vulcan, the exhibit is not relevant or material to any of the issues here involved, and is objected to for that reason.

Exhibit 168. This is a check of T. W. Webb & Company Ltd. to Midland Bank Limited and has no bearing on the issues here involved.

Exhibit 169. Check of Wise made by Klein, dated February 5, 1930, for £2,500 in payment of 25,000 shares Sunbeam Press Work Conveyor stock.

Exhibit 170. Check dated March 12, 1930, for £1,290 in payment for Sunbeam shares.

Exhibit 171. Check for £250, dated February 17, 1930, to F. H. Manning in payment of newspapers carrying quotations on Sunbeam and other shares.

Exhibit 172. Check dated March 3, 1930, to Cyril D. B. James Company for £58; Exhibit 173, check dated March 11, 1930, for £327; and Exhibit 174, check dated March 14, 1930, for £1,000, in payment of certain listed stocks on the London Stock Exchange and for balance of Sunbeam shares; Ex-

539 hibit 175, check dated March 11, 1930, in the sum of £778 for Sunbeam shares; and Exhibit 176, check dated March 10, 1930, for £1,000 in payment of the purchase price of shares on the open market are all checks given and paid to C. B. James & Company, brokers, and/or to their clerk, F. H. Manning, in connection with personal transactions of Wise and/or Klein with them for stocks purchased by them through said

brokers, and are wholly irrelevant and immaterial to any issues here involved and are objected to for that reason.

Exhibit 178. This is a letter of recommendation of a secretary signed by J. Wise and is wholly irrelevant and immaterial.

Exhibit 179. Check of Elman to T. W. Webb & Company for £33,000, dated August 21, 1930, in payment for Rhodesia Border Mining Stock. Although showing a further payment for stock the Exhibit is not relevant or material to the issues here involved.

Exhibit 180. Check which was cancelled and for which Exhibit 179 was given in its place and stead, and it is also therefore equally irrelevant and immaterial.

Exhibit 181. This exhibit is a letter which seems to have something to do with Mr. Elman's sale of stock in the Sun beam Presswork & Conveyors Ltd. Company and is irrelevant.

Exhibit 182. This letter also seems to have something to do with the sale by Elman of Sunbeam Presswork shares, and the whole of this exhibit is irrelevant and immaterial.

Exhibit 188. This appears to be a check given by Augustus Young to Arthur J. Klein in some personal transaction and is completely irrelevant to the issues here involved.

Exhibit 189. This is a copy of the Wise-Guest personal account with Augustus Young and is irrelevant to the issues here involved.

540 Exhibit 191, and Exhibit 192. This is a receipt of the Foreman-State National Bank of Chicago to Young for £200,000 British War Bonds, and the receipt of Mrs. Louis Cohen to that bank for said bonds. These exhibits are wholly irrelevant.

Exhibit 195. This is a check of Augustus Young to H. Green and seems to have no bearing upon this case.

Exhibit 196. List of securities sold by Augustus Young for Broad Street Press, and is in no wise relevant or material to any issue here involved.

Exhibit 198. The same is true of this exhibit, which pertains to vendors and option shares, Aeonic Radio Ltd. (a listed securities) being discussed November 29, 1928, in which Dickinson and Sidebotham, members of London Stock Exchange, acted as brokers.

Exhibit 199. The same objection is made to this exhibit which is an unsigned letter pertaining to Victoria Gramophone and Aeonic Radio Limited Shares.

Exhibit 201. This Exhibit is objected to as absolutely irrelevant, being a payment of brokers' fees in connection with matters having no connection with this case.

Exhibit 202. This exhibit which seems to be letters introducing Mr. B. L. Elman to certain brokers has no relevancy to the issues here presented, and is objected to for that reason.

541 The Commissioner will note that many Exhibits are set forth in the record twice. This is true of Exhibits 1 and 2 (designated Exhibits 20 and 16 upon second insertion) and Exhibits 51, 52, 53, 54, 55, 60 and perhaps others.

The Commissioner will also observe that many Exhibits referred to in the depositions, some of which seem to have a vital bearing upon facts favorable to the respondent, are entirely omitted from the record. This is true in Group 2 of Exhibits 12, 15, 17, 22, 23, 25, 26, 27, 28, 44, 45, 46, 47, 48, 49, 50, 56, 58, 63, 64, 71, 72, 73, 74, 75, 78, 79, 80, 81, 82, 83, 86, 87, 89, 91, 92, 93, 94, 95, 96, 97, 99, 100, 101, 108, 109, 111, 112, 113, 114, 119, 124, 125, 127, 128, 129, 130, 131, 132 and 133. Exhibits 139 to 147, both inclusive, are not included in any group.

In Group 4, Exhibits 161, 177, 183, 184, 185, 186, 187, 190, 194, 197 are omitted from the record. We wish to call the Commissioner's attention especially to the fact that Exhibit 58 referred to in the deposition as a contract between Permanent Investments Company and Vulcan Copper Mines, Limited, where Permanent Investments sold valuable mineral properties to Vulcan for £512,000 is entirely omitted from the record; and also to the fact that Exhibit 112 referred to in the depositions by different government witnesses, and described by them as being a check made by Broad Street Press to the Rhodesia Border Mining Corporation, Ltd., for £33,000, dated September 15, 1930, in payment to the Rhodesia Company for stock of that company is entirely omitted from the record, without the record disclosing any reason therefor.

542 All of which is most respectfully submitted.

LEVINSON, BECKER, GLENN & SCHWARTZ,
Attorneys for John Factor.

543 Motion to dismiss and discharge.

And now, at the close of all of the evidence for and upon behalf of the demanding government herein, comes the respondent, John Factor, and moves that the complaint herein be dismissed, the warrant herein quashed and respondent discharged, and in support thereof, shows to the court the following, that is, to-wit:

1. That the offense charged against the respondent herein made in the second complaint and warrant is not an offense against the laws of the Kingdom of Great Britain, and therefore not an extraditable offense under the Treaty between the Kingdom of Great Britain and the United States of America.

2. That the documents called depositions are not depositions at all within the meaning of the Acts of Congress.

3. That the evidence does not show any offense against the laws of the State of Illinois.

4. That the evidence does not show any offense against the law of Great Britain.

544 5. That the evidence is insufficient in law to show probable cause that an offense has been committed by the respondent against the laws and statutes of the Kingdom of Great Britain or of the State of Illinois.

545 Motion to Dismiss the Complaint Heretofore Filed Herein.

Now comes John Factor, in his own proper person, and by Levinson, Becker, Glenn & Schwartz, his attorneys, and moves to dismiss the complaint heretofore filed herein, and for grounds in support of said motion shows:

First: That the complaint does not charge any offense.

Second: That the complaint does not charge any offense against the laws of Great Britain.

Third: That the complaint does not charge any offense against the laws of the United States.

Fourth: That the complaint does not charge any offense against the laws of the State of Illinois.

Fifth: That the complaint does not charge any offense with the certainty required by law.

Sixth: That the complaint does not charge any offense against the laws of Great Britain with the certainty required by law.

Seventh: That the complaint does not charge any offense

against the laws of the United States with the certainty required by law.

546 Eighth: That the complaint does not charge any offense against the laws of the State of Illinois with the certainty required by law.

Ninth: That the complaint does not set out any facts sufficient to give the Commissioner here power to hear any evidence of pretended criminality on the part of the respondent.

Tenth: That the complaint does not set out any facts sufficient to give the Commissioner here jurisdiction to hear any evidence of pretended criminality on the part of the respondent.

Eleventh: That such allegations as are set out in the complaint are mere conclusions of the complainant.

Twelfth: That the complaint does not apprise the respondent of the nature and cause of his accusation.

Thirteenth: That the allegations of the complaint are vague, indefinite and uncertain.

Fourteenth: That the allegations of the complaint are so vague, indefinite and uncertain that the respondent is not able to prepare an explanation of them.

Fifteenth: That the allegations of the complaint are so vague, indefinite and uncertain that the respondent is not able to prepare a response to them.

547 Motion to Quash the Warrant issued by the Commissioner for the Arrest of the Respondent.

Now comes John Factor, in his own proper person, and by Levinson, Becker, Glenn & Schwartz, his attorneys, and moves to quash the warrant heretofore issued by the Commissioner, and for grounds in support of said motion shows:

First: That the warrant issued by the Commissioner was issued without authority of law.

Second: That the warrant issued by the Commissioner is void.

Third: That the Commissioner was without power to issue the warrant.

Fourth: That the Commissioner was without jurisdiction to issue the warrant.

Fifth: That there was nothing of legal effect before the Commissioner upon which he could issue the warrant.

Sixth: That the Commissioner acted contrary to law in issuing said warrant.

548 Seventh: That the warrant does not describe the nature and character of an offense for which the respondent lawfully could be arrested.

Eighth: That the warrant does not describe any offense for a violation of which the respondent lawfully could be arrested.

Ninth: That the warrant does not describe any offense against the laws of the United States for the violation of which the respondent lawfully could be arrested.

Tenth: That the warrant does not describe any offense against the laws of the State of Illinois for a violation of which the respondent lawfully could be arrested.

Eleventh: That the warrant was issued contrary to law.

Twelfth: That the warrant was issued contrary to the Statutes of the United States.

Thirteenth: That the warrant was issued contrary to the laws of the State of Illinois.

549 Motion.

Now on this 28th day of July, A. D. 1931, comes John Factor, in his own proper person, and by his counsel, and moves the court to allow further arguments in support of his written motions to dismiss the complaint and quash the warrant both heretofore filed herein, and that, after such arguments, the court reconsider its ruling heretofore entered denying said motion to dismiss the complaint and quash the warrant and thereupon to grant said motion to dismiss the complaint and warrant herein.

551 Friday, September 25, 1931.
2:00 o'clock P. M.

Hearing resumed pursuant to adjournment.

And thereupon the respondent, to maintain the issues in his behalf, introduced the following evidence, to-wit:

552 MAJOR HARRY BRYAN PEARSON, a witness on behalf of the respondent, being first duly sworn, testified as follows:

Direct Examination by Mr. Gilbert:

Address, 50 Thornton Avenue, Chiswick, London; mining engineer; am associate of the Institute of Mines and Metallurgy; and A Fellow of the Geological Society; am a retired Major from the British Territorial Army. I served with the British Forces during the War, in France, Russia and
558 Egypt. Have had 38 years of mining experience; that has been in practically all parts of the world except
554 Australia. I was in Colorado from 1894 to 1897. I was studying engineering, partially in the School of Mines at Golden and mostly in the field; from 1898 to 1903 I was in Alaska, studying mining and prospecting, and so forth.
555 In 1904 I was in Mexico, Arizona and New Mexico, studying mining engineering and prospecting. In 1905 in Maine and Massachusetts, examining mining properties, rare metals, such as molybdenite. In 1906 I was in Nevada and California, examining copper mines for the Yerrington Copper Company of New York. In 1907 I was in Siberia,
556 examining a stretch of country for gold and copper for the Nerchinick Mining Company of England. In 1908 to 1909 I was active in Siberia, in the Caucasia, between Russia and Siberia, examining properties, gold and copper mines, for the Mt. Elbrus Mines. As to 1910 to 1914, I came back to Canada and the United States. I was mostly in Northern Ontario, Porcupine, Cobalt, and also in British Columbia, examining mines, making estimates for plants, develop-
557 ing work. I did that work for a number of companies. In 1912 I was in Cornwall a great part of the time, and the remainder of the time in the Caucasia examining tin mines and lead and copper mines. From 1915 to 1920 I served with the British Forces. In 1921 to 1922 I was in Wales and Corn-

wall most of the time, examining lead properties in the capacity of examining and consulting engineer. In Cornwall I
was examining tin properties in 1924 for a number of
558 companies, Rebellus Tin Mining Company, Wheal Treburland Company. I went to Burma in 1925 and from there I went to Sumatra, and from Sumatra to the Straits Settlements on the Malay Peninsula. Sumatra is the island west of the Malay Peninsula, north of Java. I was examining
gold property there in all of those three countries. It
559 was a Dutch concern. I am very sorry I cannot think of
the name of the company, a Holland Company. In 1927 and 1928 I was in Cornwall, tin mines again. In 1929 I was in Southwest Africa, and in 1930 in Southern Rhodesia. Altogether I have had 38 years' experience as an examining and mining engineer, with the exception of my war service. My
war service had nothing to do with mining. I have met
560 John Factor since I came here. Have never met him
before coming here. Met him here in Chicago on this visit, in your office. I first heard of John Factor on my return to England in January of 1931. Have never had any business dealings or transactions with Factor, either directly or indirectly. Mr. Fyson asked me to come to the United States to testify in this extradition case. I believe Fyson is Factor's attorney in London in this case. I was retained professionally by Fyson to come to the United States on this mis-
561 sion. Have never discussed this matter with Factor. I
know Frederick Newberry. He is a financier and mining engineer at 15 Copthall Avenue, London. He has been at that address I believe about thirty years, in the same offices. I first met Newberry in 1924. He retained me at that time to perform some engineering work for him. I was retained generally by him at that time to look over the reports, if
562 necessary examine and report on properties, going
abroad, or at home, for Newberry, or for any of the companies that he was interested in. I have not discussed this matter with Factor, but I have discussed the matter in great detail with you. Newberry employed me in 1924 to examine and report upon properties in which he or the companies in which he was interested might be interested. I have been employed by Newberry from time to time in that capacity from 1924 to 1930. Was employed by him solely in the capacity of consulting or examining engineer. In January, 1929, I received instructions from Newberry to proceed to South-

west Africa to examine some mining property. I sailed
563 for Southwest Africa on the tenth of January, 1929.
Before I sailed for Southwest Africa, Newberry introduced me to someone in connection with the mission to Southwest Africa. That was Craig. Craig was mining engineer of the Providence & Johannesburg in Southwest Africa. Johannesburg is in the Transvaal in a portion of South Africa, what is called the "Union" of South Africa. I had previously known Craig, met him at Newberry's office before that time, and had heard of him by reputation. His reputation was very good as an engineer. He was an aged man who had had a tremendous amount of
experrence, in Africa particularly. He had an excellent
564 standing as a mining engineer. I discussed with Newberry and Craig certain properties which Craig had introduced to Newberry. I was shown a number of reports of mining engineers other than Craig on these properties. The first property was called Otjsongati. The other was the Matchless. They were located in Southwest Africa. After seeing Craig and examining the reports I have referred to,
I went to South Africa. I was in Southwest Africa at
565 that time for one year and a few days; I arrived about the 30th of January, 1929. I left Southwest Africa about the second or third of February, 1930. During the time I was in South Africa I examined certain properties, the Otjsongati in the District of Okhanga, and the Matchless in the District of Windhoek. I examined three other properties
in Southwest Africa, Spitzkopie, Ubid, and the Otjsongati
566 Extension. I have stated that Craig recommended the Otjsongati and the Matchless properties.

Counsel for demanding government here objected to testimony that Craig recommended Otjisongati and Matchless properties.

Mr. Overmyer: I object to the conversation, which is hearsay and not the best evidence. I further object that it is incompetent, irrelevant and immaterial. There is no showing of any relevancy of this matter at all. Until there is a showing of the connection with the properties involved here I don't think it is proper to go into it.

The Commissioner: I am not sure, but it seems to me that in some of the depositions there were names of some of these localities and properties that have been mentioned by this witness. It seems to me your own depositions have already referred to at least the localities, if not the particular properties.

Mr. Overmyer: That might be but there is no showing as yet that these entered into the Vulcan and Rhodesian properties.

The Commissioner: That may be.

Mr. Gilbert: We will show it in time.

The Commissioner: In the trial of a lawsuit, like anything else, you can take only one step at a time.

Mr. Gilbert: That is all.

The Commissioner: If you don't connect it there will be no harm done. That can be covered by a motion to strike or disregard it if it isn't connected.

Objection overruled.

I inspected those properties and formed an opinion as to their respective values. At that time they were not the
568 type of properties that we required. I reported to Newberry against their acquisition. I examined and inspected
569 the other properties, the Otjsongati Extension, the Ubid and the Spitzkopie. I have inspected the record you handed me, printed record introduced by the demanding
569a government Exhibit 104. The Spitzkopie property was located in Southwest Africa about 62 miles south of Wind-
570 hoek, on the main line railway transversing the country and situated 20 miles from the railway proper. I have a
571 government map showing the location of the Spitzkopie property, published in 1924 by the Southwest African Government. The map shows on its face that it is published by the Government of Southwest Africa, and the year of its publication.

571a (Which said map was marked Respondent's Exhibit 1. Objection by Mr. Overmyer, overruled.)

572 The Commissioner: It is a generally published map and I think may be admitted. The objection to its competency is overruled. It may be admitted and it may be marked, "Respondent's Exhibit 1."

(Witness): This map covers the Central portion of Southwest Africa in the administrative estate of Wind-
573 hoek. That is approximately 220 miles from the coast line to the west. Southwest Africa is that portion of Africa that is administered by the Union Government. This was a territory that was taken from the Germans in 1915 during the War. It is administered under the government of the Union of South Africa. That is the political subdivi-
574 sion, the political name. The country is administered by a Commissioner or Administrator. He is called both.

That was the territory that was taken from the German Government during the War. The term Southwest Africa refers to territory under the domain of South Africa, administered in some way by that government. On this map, Respondent's Exhibit 1, I have marked the location of the Spitzkopie property (indicating). I have marked the location by a blue ring, with orange center. That map carries a legend or symbol which indicates in some instances mining property. The symbol used is a cross-hammer. You
575 will find them all over the map. This is a government map.

Mr. Overmyer I move to strike out all his testimony about the map.

The Commissioner: What is the ground of your objection?

Mr. Overmyer: Simply for that purpose, the map clearly is not admissible. How could that indication on a map make it admissible?

Mr. Gilbert The name appears there.

Mr. Overmyer I still object. That does not come within the rule regarding admissibility of the map there as testimony.

576 Mr. Gilbert: The Government put it on. These mines are marked by the people who published the map in 1924.

Mr. Stansbury: And the witness says the mine was a mine.

Mr. Gilbert: And he says that is the mine. That is the location of it.

The Commissioner We are getting away from the question I am to rule on. There is just the objection made here that for the purpose of showing these were working mines, and what those legends and signs and symbols found on the map indicate, for that purpose it is not competent.

Mr. Overmyer: The map is in 1924. That is no indication that it was in 1929 or 1930.

Mr. Gilbert: Reserve ruling on the objection, your Honor.

The Commissioner I will reserve ruling on that until I hear you.

577 (Witness): I made an investigation of the Spitzkopie property and carried out some exploration work upon that property. In carrying out that work, I had the assistance of two white men and a number of Kaffirs. You would
578 call a Kaffir a Negro, I take it, a native of the country, a native laborer. I prospected the Spitzkopie property to a very appreciable extent, by cross-sectioning the surface, by cross-cuts on the veins. In opening up the veins on the sur-

face, sometimes that vein is covered with debris, occasionally we have that covered with debris. That is, the veins were exposed on the surface or covered with debris. In order to open up those veins and control the continuity, we have
579 to trace the veins. That is called cutting a trench. I cross-cut and trenched, more or less, for nearly two miles along the line of the lodes. I formed an opinion of the property as the result of the work that I did. I formed an opinion as to value of the property, that the property was developing.

(Objected to by Mr. Overmyer on the ground the witness' competency to prove value has not yet been demonstrated.)

581 (Witness): During my 38 years' experience as a mining engineer, I have from time to time been employed to investigate, examine and report on values of copper mines. I first did that work twenty-five years ago, for a number of properties in York, to be precise. I was living in the States in those days. Since twenty-five years ago I have been employed to do similar work by others, dozens of times, I might say. It would take me quite a little time to remember the names of the companies for which I did that work unless I looked back on my case book. I did not bring my case book, I am sorry. The Hanover Copper & Mining Company of New York was one company, the Yerrington-Nevada Copper Company, the Alaska Bonanza was the third, the Virgin Bay was a fourth, and all of those were while I was located in the United States. I am jumping now to Mt. Elveras in the Caucasus and over to Burma, the Burmese Syndicate.
583 I will go back to England now for a minute. The Cambria Copper Company in Wales, one of the very old mines. You will have to let it go at that. I cannot think of any more just now. During my 38 years of experience as an examining and consulting engineer, I have had occasion to make estimates and prepare plans for a number of mines; for some of the same companies I have mentioned and others. I have prospected for some of those companies and others. I made reports as to the value or prospective value. I made a substantial system of cross-cuts or trenches upon this Spitzkopie property. From that cross-cut I found what had
584 been previously discovered, a series of six lodes. I mean by lodes, veins of quartz containing more or less copper at different portions along their course. The copper was in a series of lenses, which normally occurs under the prevailing conditions in that country. These veins or lodes were visible maybe two or three miles. I might say even more than that,

but that did not concern me. I found some previous development work. I found a series of shafts, three deep shafts, comparatively deep shafts. I believe you have a plat of the underground work. I found shafts, cross-cutting and small adits, running in where the lode climbing a hill, they drifted in. I could not say the lodes were continuous, but we
585 found a number of those. I secured a plat of the underground work which had previously been carried on upon the Spitzkopie property. I secured that plat from the office of the Inspector of Mines at Windhoek, who was a mining authority of Southwest Africa. Respondent's Exhibit 2 is the plat which I have referred to as having been secured from the Inspector of Mines for the Administration of Southwest Africa at Windhoek.

Mr. Gilbert: I wish to offer that in evidence as Respondent's Exhibit 2, your Honor.

Mr. Overmyer I object. It is not competent. It is
587 self-serving.

The Commissioner: There is a great deal in the depositions offered by the demanding government that was not competent.

Mr. Overmyer: They were competent by virtue of the statute. But even if this were proved in that way it would still under the law be incompetent, namely a certificate of an ambassador would not make this competent under this statute, and that is the very reason why the depositions of the demanding government were competent. This does not even purport to bear the certificate of the man—

The Commissioner That is true.

Mr. Overmyer: And it is not shown that it is accurate.

Mr. Gilbert: Well, it is shown to be accurate. It will be shown to be accurate.

Mr. Overmyer It is not.

Mr. Gilbert As soon as it is in. And this man swears upon his oath that the government mine inspector in that territory gave it to him. Of course, it is not certified because this man got that copy long before any trouble ever developed in this thing.

The Witness Yes.

588 The Commissioner I just note that in lead pencil on the back of this instrument which is now offered, apparently in lead pencil, is this or these words: "Map from the Department of Mines Government Building Windhoek November, 1929." Then this: "Copy of original German survey from government tracing."

Mr. Gilbert Q. What does that mean?

A. I might explain, your Honor, if I am permitted. This is a note of mine when I got this map. A note made by me, in my writing, made by me at Windhoek. This map was given to me by the Inspector of Mines in December, 1929. As far as I know, it accurately shows the shaft and underground workings of the Spitzkopie properties.

Mr. Overmyer I object.

The Commissioner: Objection sustained to that question, unless you show that he has knowledge or made comparisons, or something of that kind. Even then I don't know if it is competent.

Mr. Overmyer He is drawing a conclusion from something that is not in evidence.

The Commissioner He may testify orally he made a memorandum and made an oral drawing, and so forth; if he
590 did that, he might identify that and correct some other drawing that has been otherwise prepared for him, and make it a part of his oral testimony. The exhibit does not prove anything of itself.

(Witness): In my investigations of the Spitzkopie property, I ascertained the amount of underground working shafts on that property. I did not make drawings of those. There was no necessity when I had that map.

Q. Does that map accurately state what is on that property in the way of shafts and underground works?

Mr. Overmyer: I object.

The Witness: I am under oath, sir.

Mr. Gilbert: Q. Yes.

A. That does.

Mr. Overmyer: I move to strike out the answer.

The Commissioner I think I will let the answer stand.

Mr. Gilbert: Now, may the plat be received?

The Commissioner Oh, I think I will let it in.
591 I will take it subject to the objection.

Q. Now, Major, will you please look at that plat and tell us what the plat shows in relation to the shaft and underground workings, and also what you found in relation thereto from your own personal inspection?

A. As I previously stated, there were six of those veins or lodes traversing the country in this general direction (indicating). This is represented by one series—

The Commissioner: What do you mean by "this general direction?"

A comparatively east and west, your Honor. These maps

are usually made north and south. Most maps are, or oriented that way. For some reason, this is the orientation of this map (indicating). The shaft No. 1 has a total of 650 feet of underground work as a whole. It goes down to the 11 metre level in this case. That is about 40 feet. It is 39 inches to a metre. It is 39 inches and a small fraction to a
593 metre. Shaft No. 2 is a much deeper shaft. It does down about 20 metres. The underground work is a total of 200 feet. There is a drift both west and cross-cuts north and south. Shaft No. 3, there is an approximate amount of 300 feet of work done underground and the levels a[illegible] 9 meters and 30 meters. So [illegible]at shaft obviously goes down to the
594 hundred foot level. This property was originally opened up. I found a large number of dumps, if you know what dumps are, containing copper ore of low grade and some gold ore, that were left there by the previous operators of this property, who had put down the shafts. They were a German copper company. This property operated just before the War and they were obviously closed down in the War.

Mr. Overmyer: I object to that.

Mr. Gilbert: Were you told they had been closed down in the War?

The Commissioner You are objecting to the "obviously closed down in the war?"

Mr. Overmyer: Yes; he is testifying to something not of his own knowledge.

Mr. Gilbert: Who gave you the information about previous owners?

595 A. The Inspector. This information, I might state, is a matter of record with the Inspector of Mines.

(Objected to by Mr. Overmyer.)

The Commissioner: I think the objection will have to be sustained to the answer as it stands. Obviously he cannot know whether the Germans had previously operated it, except by some sort of a report or something of that kind.

(Witness): From the evidence that I found, and my experience as an expert mining man, I could tell from my knowledge whether that property had been worked as a mine.

598 Q. And what did you conclude from the evidence there present on the property?

Mr. Overmyer: I object to that.

The Commissioner: He may answer that.

The Witness: That this property had been developed to the point where it had become a mine that was capable of

paying. It had been operated as such. I took some specimens of ore from the Spitzkopie property with me back
599 to England when I went back in February, 1930. I submitted them to Newberry. I brought a portion of those specimens with me to the United States. The two specimens marked Spitzkopie 1 and 2, Respondent's Exhibit 3, are two samples of ore which were obtained by me at the Spitzkopie Mine. They were picked from the dump in the ordi-
600 nary course. I have had those two specimens marked Respondent's Exhibit 3 assayed by Plummer, who is present, of Robert W. Hunt & Company, assayers, of Chicago, Illinois. I submitted them to Plummer on the 19th of this month. Those specimens which I hold in my hand were constantly in my possession since picked up at the Spitzkopie property and prior to my submitting them to Plummer. I identify those as the same specimens I handed to Plummer.

Mr. Gilbert: I wish to offer in evidence Respondent's Exhibit 3.

Mr. Overmyer: Object.

The Commissioner: I will admit it subject to further connection here. I think you had better show they came from these properties.

Mr. Gilbert: I will show it came from the Spitzkopie property.

The Commissioner: I will reserve ruling.

Mr. Gilbert: We have shown they were from the Spitzkopie property.

The Commissioner: Possibly there are some other things, some other connections. I don't think this inquiry should lead into a determination how valuable a mine they had, if they had a mine at all. Of course, the testimony here as found in the depositions of the demanding government has very little that—of a questionable, somewhat questionable character as to its competency on the question of value. One of the witnesses testified that he found, that he was unable to find any ownership, and that the properties were valueless; but it was not disclosed how that witness did get that knowledge.

601 Mr. Gilbert They said there was no evidence of any property had by this company, any mines or property of any kind. We are seeking to explain that man did not know what he was talking about.

Mr. Stansbury: That is the fellow that abstracted that man's testimony, deliberately abstracted it the wrong way.

602 Mr. Gilbert: I am saying, without any animosity against anybody, that this is a wilful job of an abstract. They left things out where there is no excuse for it except wilfulness. I will stand on the record as saying that. But we will go on.

The Commissioner: We will take these subject to future rulings.

(Witness): During my investigation of the Spitzkopie
603 property, I discussed that property with the Assistant Inspector of Mines of Southwest Africa. The Assistant
604 Inspector of Mines and I together reviewed the records in his office in relation to the Spitzkopie property.

Q. Will you now please state what those records disclosed?

Mr. Overmyer: Now, your Honor, I object. The records are the best evidence.

(Thereupon colloquy ensued between counsel and the Commissioner upon the foregoing objection, but no ruling was made by the Commissioner.)

(And the further hearing of the cause was continued
620 to Monday, September 28, 1931, at 2:30 P. M.; at which time the hearing was resumed pursuant to adjournment.)

Mr. Gilbert: If your Honor please, I have a motion here that I intended to file before starting with the evidence, but it slipped all of our minds. I don't want to urge you at all. I just want to file it to preserve the record. It is a motion to dismiss at the close of the Government's case. I just want to file it and it may be taken with the case.

621 MAJOR HARRY BRYAN PEARSON, resumed the stand for further direct examination by Mr. Gilbert and testified as follows:

We had reached a point in my testimony on Friday where I testified that I had visited the office of the Inspector of Mines of Southwest Africa. The name of the Inspector is Tullock. I am talking of Southwest Africa. The name of the Inspector of Mines in Southwest Africa was Ray. The name of the Assistant Inspector of Mines in Southwest Africa was Muller. Upon my visit to the Inspector, the Assistant Inspector and I looked at the records of his office in respect to Spitzkopie.

Q. What did you read in those records?

622 Mr. Overmyer: Just a minute, if the Commissioner please, I want to object to that.

The Commissioner: I think I will let the evidence in, the inspection of records—that is the same type of evidence.

Mr. Overmyer: Your Honor, it is a question. How does he have the right to testify as to the contents of a record? They do not even show that they made any effort to get copies, and they could not do so. It presents a very serious question whether they are entitled to go into a thing of that kind at all, to add to that by permitting him to testify or introduce incompeent evidence. I think, your Honor, that is beyond the indulgence that ought to be accorded to them.

Mr. Gilbert: If the Commissioner please, as your Honor pointed out Friday, the record of the demanding government is replete with this particular sort of evidence. I might say in regard to showing as to inability to get records from Southwest Africa that until Major Pearson came here and I had an opportunity to talk to him I did not know that he had seen these records in Southwest Africa. That was only so few days ago it was absolutely impossible to go on with this hearing and have the records here from Southwest Africa. If counsel wants to postpone the hearing and give us time to secure records from Southwest Africa, that is another matter. But inasmuch as a very large portion of the Government case is this very type of evidence, that they have examined the records and they disclose so and so, and they are not even public records in some instances but are private records, I think in justice and fair play that your Honor should allow this witness to state what he saw in the records. Truly enough, as Mr. Overmyer says, that would be incompetent evidence, but is only made competent because the American Ambassador has made a certificate which is not an accurate certificate, to-wit: that form of evidence would be admitted in London. Of course, that is not a fact, but because the Ambassador saw fit to put his certificate on it, that it would be admissible neeessarily, according to the argument of my most honorable opponent, must be admitted. I say likewise we should be given at least a little opportunity to let this witness tell what was in these records in view of the practical impossibilty of getting the original records here.

The Commissioner: I will let it go in subject to the ruling on all of this later.

645 The Commissioner The question was whether he saw certain records.

Mr. Gilbert Q. I asked you what you saw and read from those records with regard to the Spitzkopie property.

A. The previous owners who had worked this property

had shipped a trial shipment to Germany of four tons of copper lode ore which ran over 30 per cent copper, and from 5 to 15 pennyweights in gold, per ton of [redacted]. I read in that report the name of the previous owner of the property
646a but I have forgotten it. I spent between a month and five weeks investigating the Spitzkopie property. My inspection was a detailed inspection as far as it could be. I prepared a report of my investigation of the Spitzkopie property. Respondent's Exhibit 4 is my report of the Grosse & & Klein Spitzkopie Corporation, the property I have
647 been discussing. I made that report to Newberry. I was ordered then to make my report to the Permanent Investments. The original of my report was a matter of record in London during the case of Newberry. It was not available to me. That is a copy of my report. That copy of my original report directly states the results of my investigation in the Spitzkopie property. It is a frank and full and complete report of what I found there.

Mr. Gilbert: I wish to offer in evidence Major Pearson's, or a copy of Major Pearson's original report.

Mr. Overmyer: I object to it. But in making this specific objection I don't want it undersood I am not objecting to each of the other questions. I am objecting to each and every one.

The Commissioner: I understand. Well, have you any other points on that, Mr. Overmyer?

Mr. Overmyer: Your Honor, simply this. Why can't he testify—

Mr. Gilbert: Because this shortens it up.

Mr. Overmyer: Why can he not testify, instead of filing the report?

Mr. Gilbert: It shortens it up.

Mr. Overmyer: Let him testify.

Mr. Gilbert: Now I can take this and ask him a question as to each one of it if you want me to. I can lengthen this out for about a week, if that is what you want.

The Commissioner: Did you submit it to counsel?

Mr. Gilbert: I will be glad to submit it (handing document to Mr. Overmyer). May this document be received so that I may read it to your Honor?

The Commissioner. Well, I will receive it subject to my ruling on this other testimony. Only subject to that and any specific points raised as to how the report was prepared and made.

(The Witness): I made this report in London I made it as a result of my investigation that I previously testified to, from my field notes. My report is a true and correct statement of the conditions that I found there and my conclusions based thereon.

(Thereupon Mr. Gilbert read Respondent's Exhibit 4.)

650 (Witness): I am familiar with the system prevailing in Southwest Africa with regard to registering
652 mining claims. During my experience in Southwest Africa I have had occasion many times to peg out, take out licenses and perfect claims to mineral properties. I am familiar with that procedure. I knew it well.

(Objection by Mr. Overmyer.)

The Commissioner: I will hear it, subject to the general rules, subject to the objection that I let all of this in.

653 The Commissioner: It seems that the witness in a way is one who is familiar with mining rules and regulations, and is to some extent qualified to answer the question. You have exhibited by the witness some qualifications to answer. What I am more concerned with is whether or not that testimony or that character of testimony is really explanatory and ought to remain here.

Mr. Gilbert: Explains those statements.

The Commissioner: On that subject I expect to rule later. As to whether or no he will be qualified to testify whether or not actual claims have been made in compliance with the law, will be a question of fact.

Mr. Gilbert: We will lead up to that.

The Commissioner: You are now expecting to show what the manner of making claims, locating them, monumenting them and working them is.

Mr. Gilbert: Yes.

The Commissioner: And I suppose doing those things that are necessary to comply with the requirements for keeping them.

Mr. Gilbert: Yes.

The Commissioner: Whether it is development or what it is. To that end I think they have shown some qualifications of this witness. If that whole matter is really at issue here in the case more than merely explanatory, you might have to show the laws themselves, the rules and regulations.

Mr. Gilbert: Yes. It is. It is offered in explanation of this evidence, that there is no record in England.

The Commissioner: He may answer subject to the rule.

Examination by Mr. Overmyer.

Prior to the time I went down there for Newberry, I had never been in Southwest Africa. The language used down there is principally a bona fide form of English or Dutch and some German. The statutes are printed in English and Tau. Tau is South African Dutch. I don't read that language. This book shows that it is a translation of something. I have never read the original. I saw an original
657 statute book down there, plenty of them, in Dutch, but there is an explanation. I was simply going to say that for common or ordinary purposes they are never used, because no one speaks Dutch in the country, only the farmers. The fact is that the statute book is in Dutch and that is a translation of it. It is issued by the Government and by
658 Governmental authority. John Minor, Limited, are the printers.

Mr. Peebles: Back of it, it shows the authority.

Mr. Overmyer: I don't see any authority for that matter,

(Witness): I do profess to have registered mining claims down there. I registered Spitzkopie, Newberry, Ubid, the Otjsongati Extension, which you will come to in a short time. I also registered other properties which do not come into this. For the purposes of registration you have no documents. The authority I had was a mining license from the Inspector of Mines of Southwest Africa.

659 Q. Didn't you testify you never had been in Southwest Africa before?

A. Yes, but didn't I register a few mines before?

Q. Yes. But the law of England and the laws of the United States are said not to be the same. It is a matter of registering them all over the world.

Mr. Gilbert: How many mining claims have you registered all over the world?

660 A. That is futile. I registered 4, 7, 9, 11, 14, down in Southwest Africa. That is not necessarily the Newberry claims, not the claims that come into this argument but
661 some others he was interetsed in, yes. The first thing a mining engineer does in a new country is make himself thoroughly familiar with the mining laws and, until he does that, he is absolutely useless in a country he goes to. As to whether I made myself entirely familiar with the mining laws, by the appearance of that book, you would imagine I have done so. I followed the laws on the twenty claims I

staked out, pegged and registered. I absolutely had no trouble with the authorities.

662 The Commissioner. If you are through with the original preliminary examination on his qualifications to testify, I will rule.

Mr. Gilbert: We are ready for a ruling.

Mr. Overmyer: I am ready for a ruling.

The Commissioner: I think it may be answered.

Direct Examination (resumed) by Mr. Gilbert.

As to the system prevailing in Southwest Africa in regard to registering mining claims, the first thing you do is to take out a prospecting license. That entitles you to prospect 663 for and locate mining claims. The license is good for a limited time, depending on the amount you pay for it. In a case of Spitzkopie, my license was then over a year old and had been kept up to date. I paid a fee for that license, it was according to the laws of South Africa that I did so. I paid a fee of 5 shillings for all the license; 5 shillings for the license for base metal claims and 10 shillings for the license for precious metal claims, or mineral claims, as you might like to call them. You can take the license out for a shorter period of time. You can take it out for three months, but you pay 5 shillings just the same, and 10 pence. A 664 license is issued by the Inspector of Mines at Windhoek. After you have located a claim, you have a reasonable time in which to put your location stakes up, your sideline stakes, and end line stakes, and to register this claim. Then you pay the Government a fee. The fee is 5 shillings per month for a base metal claim, and 10 shillings for a precious metal claim, per month. Having paid that fee for registration, that secures the sole right to prospect upon this claim, upon the property pegged out. It gives you a 665 form of title to the land. There are conditions to that form of title that you must do a certain amount of work upon this property or this claim to the satisfaction of the mining authorities. The development must be usually done within 60 days. Under the law, a certain amount of development work has to be done each year. It must be done to the satisfaction of the competent mining authority, the Inspector of Mines, Administraton Building, Windhoek. The required development work had been carried out on the Spitzkopie property up to the time I left South Africa for England.

Q. Now you said the original development work had to be

done within sixty days usually. If that is done, for what period of time does it protect what we referred to as a form of title?

A. If you have your license it protects you for one year, but if longer at the discretion again of the mining authorities. At the end of the one year, or twelve months period, it is normally necessary to do further developing work to preserve your title, but again this discretion may be used in that direction. In the case of the Spitzkopie property, I paid the necessary fees. The property was fully pegged out and registered by me. The necessary sixty-day development work was done. The title, as you have referred to it here, was properly secured. A claim was originally registered in my name. In order to simplify the matter and to comply with the Union of South Afric. laws, it was transferred to
666 Roodeeklip Gold Mining Corporation. It was later transferred to the Permanent Investments, Limited, of 5 Court Row, Guernsey. I have seen those title papers.

Q. And would they be registered and recorded in Guernsey, the Permanent Investment Company being a Guernsey corporation or not? If that is not right, I don't know.

A. There was no necessity. If they are registered or recorded in Southwest Africa, it is quite sufficient. I know that the Permanent Investment Company was a Guernsey corporation. A record of the titles of the claims was made in Southwest Africa. It would not be in London.

667 Q. After the two months development work, which you testified must be done to the satisfaction of the Inspector of Mines, and if done to his satisfaction, your claim or title is cared for a twelve months' period, then is there a fee or due that you have to pay to the Government?

A. Not until that is a mine and workable as a mine. Then you have to pay 3 per cent dues on the gross ore taken from the property. That is in the nature of a royalty to the government. So long as you pay that royalty, your title is good.

668 Q. Now, are the payments of which you have spoken the only payments for which you are liable under the law there in case of a mining claim?

A. That and keeping up, of course, your payments on the claims for which you have to pay money, which I have heretofore stated. Five shillings per month on base metal, and 10 shillings per month on precious metals, so in all it costs

you approximately 35 shillings per month on the Spitz-
669 kopie because of the number of claims. There are three Spitzkopie claims. That is 10 shillings per month on one of those claims, and 5 each on the other. You first obtain a license to prospect; that is 5 shillings. When you have prospected and pegged out and registered, then you have a fee of 5 shillings per month on each claim for base met-
670 als. You pay six months in advance. That makes 30 shillings; and then five for prospecting, makes 35 shillings. I have testified that I took all the necessary steps as I have just outlined in regard to Spitzkopie. In addition to the investigation which I made upon the Spitzkopie property I have stated that the record at the Department of Mines even show that the property was occupied by previous owners who shipped ore to Germany. That prior development certainly did disclose to my expert opinion that these claims were valuable claims. I learned from the records of
676 the Department of mines why the mines were not working. First, trouble with the British authorities by the Germans, and then lack of capital to carry out their work. The two combined stopped the work of the property and that was disclosed by the official records, and that was the common knowledge everywhere in that vicinity, it was well known. I took out a license to prospect a claim included in what is known as the Ubid property. The Ubid property is located on the farm of Schettler in the District of Karabid. That is shown on the next map you will see. It is on the left, or the west of this one.

(Whereupon a map showing the location of the Ubid
672 was marked Respondent's Exhibit 5.)

(Witness): The map I have in my hand is a government map similar to the map that was introduced in evidence the other day, a continuation published by the authorities of the Government at South Africa. I have stated that the location of the Ubid property was marked upon the map
673 which is called Respondent's Exhibit 5. I mark it with a blue ring on the map with a pointer at the edge of the map to show it and the word "Ubid" also written on the map itself. That truly shows the location of the Ubid property.

Mr. Gilbert: I wish to offer Respondent's Exhibit 5 in evidence.

The Commissioner: It will be received subject to objection, the same as the other.

674 (Witness): That blue circle correctly and accurately shows the location of Ubid. The Ubid property comprised two claims. I paid the necessary fees and took all necessary steps to procure the title in the case of the Ubid as I did in the case of the Spitzkopie. I took precisely
675 the same steps that I did in the case of the Spitzkopie. I reported in detail upon that property to the Permanent Investment Company, upon the order of Newberry, on my return to London in 1930. I think that was in February, at the end of the month. Document marked Respondent's Exhibit 6 is a copy of my report on the Ubid copper claims made to Newberry, made to the Permanent Investments Company of Guernsey or Newberry; by me, by Newberry's
676 authority. It was delivered to the Permanent Investments. As far as I am aware, the original of my report is a part of the court files as in the other case and is not available. This is a true and accurate copy of my report. I now adopt this as the original.

Mr. Gilbert: I wish to offer in evidence this report as Respondent's Exhibit 6.

The Commissioner: What do you mean by court files, Mr. Gilbert?

Mr. Gilbert: They were introduced in the trial of Newberry.

The Commissioner: The originals?

The Witness: I will sign this and make it an original, if necessary.

Mr. Gilbert: Well, it is not necessary. It is a funny way they have there, Mr. Commissioner. They won't certify exhibits. They were not, however, read to the court or the jury. They don't identify exhibits over there. They just produce them. "I produce a paper marked exhibit so and so," and then they lay it aside, or they use it, as they like, but it becomes a part of the files and you cannot get it out, and they won't certify to an exhibit.

(Thereupon Mr. Gilbert read Respondent's Exhibit 6.)

678 (Witness.) In a general way, I prospected on this property, or my men for me, for over three months, nearly four months, three white men and from five to twenty

Kaffirs. I brought a specimen of the ore from the Ubid as I did in the Spitzkopie. I took the specimens to England with me. I got the specimen on a hanging wall that the report speaks of. I submitted some of the specimens of the ore to Newberry. I brought a portion of those specimens
679 with me to the United States. The two specimens of Ubid, which are marked with a tag, "Ubid 1 and 2" which you hand me, are specimens which I brought with me to the United States. They came from Ubib and were selected by me from an open cut, which my report states I made in the vein and about eight feet from the surface. I have had those specimens assayed by Plummer of the firm of Robert W. Hunt & Company, assayers, Chicago, Illi-
680 nois. I gave those specimens to Plummer about the 19th of this month. I have kept those specimens which I have here before me constantly in my possession since I took them from the Ubid property and prior to my submitting
681 them to Plummer. I have previously testified that I returned to England in February, 1930. Upon my return Newberry gave me instructions about a further property upon which an option had been taken. The property was situated in southern Rhodesia and was called by the name of the Crescent Mine. I went to southern Rhodesia in 1930. I left England about the 27th of June, 1930.

Mr. Gilbert: I have not offered those samples. I want to offer them in evidence. They should be marked together, the two of them, Respondent's Exhibit 7.

Mr. Overmyer: I object.

The Commissioner: There is an objection made here. I will have to follow the rule. I am reserving ruling as to this whole testimony. In addition to that, I think there will be some other points you will have to show here before they are admitted in evidence, anyway, if they are offered here for the purpose of tending to prove value.

Mr. Gilbert: I am going to be shown by another witness what they assay and what their value is. I have asked him where he selected them, and he says where he selected them, and I asked him in what manner and he said he took them from that place. Of course I know that the Commissioner—what the Commissioner has in his mind, I think.

(Whereupon the specimens were marked Respondent's Exhibits 7 and 7-A, respectively.)

(Witness.) I picked those specimens out to be the best

thing I could find in this particular spot. I do not know
683 what they assay. As a matter of fact, I have not seen the gold certificates. As to whether that is a characteristic specimen, those are characteristic of the higher grade ore occurring in the Ubid. As far as we could determine, they are characteristic of the Ubid ore. I imagine there is plenty there that will grade lower in that place, materially lower, down to 8 and 10 per cent copper. I think that grade is higher than that. I took a much larger specimen to England to have it assayed. I took home some 4 hundred-
684 weight. That was from Southwestern Africa; that was assayed. I have not the assay with me.

The Commissioner: But they might have some value if the issue of value were the issue here, which I take it is not, except incidentally so, I think they would have very little probative value. In the first place, his words were that they were the best he could find. Obviously, in testing the value of a large body of ore, a part of which may not exist at all—

Mr. Gilbert: Now you are talking about the sufficiency of what it indicates.

The Commissioner: Yes.

Mr. Gilbert: I am not concerned with that.

The Commissioner: I don't know if that would be an
685 issue here. Perhaps I would be justified in entirely excluding it, perhaps I would.

Mr. Gilbert: This ore assays 43 per cent copper.

The Commissioner: That may be so. But it would not have much value in tending to establish value until there was evidence of quantity and many other conditions. If it is receivable at all, it is receivable possibly upon the grounds that there is an uncertain ambiguity to the evidence offered by the demanding government in their definition on this question of the properties for which stock was being sold being valueless. I am letting it in, simply commenting upon what probative value there is, if any, to these specimens that are taken here and their assays. I will let it go in subject to objection and determine that point in the end here. I am inclined to think there would not be very much, unless many other conditions were disclosed through the evidence, where and how they were taken.

687 (Whereupon an adjournment was taken to 2:15 P. M.,
689 September 29, 1931; at which time the parties met pursuant to adjournment.)

MAJOR HARRY BRYAN PEARSON, resumed the stand and further testified as follows:

Direct Examination (Resumed) by Mr. Gilbert.

690 When we adjourned yesterday afternoon, I had just said that upon the instructions of Newberry I returned to Southern Rhodesia in 1930. You asked me if I was sent there to inspect certain properties, and I answered that I was. I think you also asked me if the property I was sent to inspect, at least one piece of property which I was sent to inspect, was known as the Crescent Mine. As to the approximate date in 1930 that I went to Southern Rhodesia on the instructions of Newberry, I left London on the 28th of June and I arrived at Salisbury on the 24th of July, 1930. I was sent to inspect what was known as the Crescent prop-
961 erty. Map marked Respondent's Exhibit 8 is a government map issued by the Government of Southern Rhodesia. That map shows the District of Lomagandi, also the Crescent Mine. The Lomagandi District is in the Northwestern portion of Southern Rhodesia. It shows the location of the Crescent Mine. As a matter of fact, it is printed on the map, printed on there by the person who issued the map. I know that is a map issued by the Government. I believe that is referred to here. It is printed and filed in the
692 Surveyor General's office in Salisbury, Rhodesia. On the map there is a square marked opposite the word, "Crescent" which has been placed thereon by the publishers of the map. That is the symbol in Southern Rhodesia map drawing for a mine such as the—in Southwestern Africa the mining symbol is a crossed hammer, while on the maps of Southern Rhodesia the mining symbol is a black square. I believe that Southern Rhodesia is administered under the Colonial Department of the British Government. It is
693 not a part of the Union of Southwest Africa. It has its own Governor General who is appointed from England. It is an English territory and has been since there was a Southern Rhodesia; since Cecil Rhodes first went into Rhodesia, over forty years.

Mr. Gilbert: I would like to offer that map in evidence, your Honor.

Mr. Overmyer: I object.

Mr. Stansbury: What is the ground of your objection?

The Commissioner: I think I will take it subject, as I have taken these other exhibits, subject to the objection to be ruled upon finally, later.

(Witness.) I have marked a green circle around the location of the Crescent Mine to make it appear more distinctly; the circle in green or blue pencil. The circle with green pencil right next to the circle I have drawn around the Crescent is the Gael, another property that comes into the next company. In discussing the Crescent property with Newberry before I went to Southern Rhodesia, he had in his possession and showed me certain reports of other engineers. I was furnished with copies of those reports. I read them and studied them. The first report was made by C. H. Milton. Immediately following the year he made this report, C. H. Milton became the Inspector of Mines of Southern Rhodesia for the Government. He had been succeeded by somebody else as Inspector of Mines for Southern Rho-
695 desia. Another report handed me was made by Perkins, who was a member of the Institute of Mining and Metallurgy, in London, a member of the Institute of Mining Engineers, and certain other learned societies, as you call them. Another report was by J. Morris, who was a mining engineer and had been in Southern Rhodesia for twenty years, approximately. I was not shown any other data at that time. At that time I did not know personally any of the men to whom I have just referred. I later became acquainted with some of them; with Morris and Dudgeon, associate of the Royal School of Mines. The first of the
697 reports I refer to were handed me by Newberry. Document marked Respondent's Exhibit 9 is the report of C. H. Milton on the Crescent Mine. That report was made on the 30th of June, 1920. That document had attached to it an estimate of the tonnage and values on dumps at that time. It had attached to it a summary of ore
700 shipped and remaining in the dumps. I saw the original of this report. I was furnished with this copy by Newberry. I had this copy made of the original of this report. I had it made myself. I compared it with the original

701 myself. It is a true copy of the original. The original is not available to me at this time.

702 The Commissioner: I will have to sustain the objection to it on the present presentation. I don't think
703 you have qualified it enough to have it admitted in evidence.

(Witness.) I never met Milton. I am not well familiar with his signature. I have seen his signature on some documents. I did not see it before the time of the submission of this report, on other documents. I have seen his signature since then on other reports; and the signature on the report which was shown to me as being an original, was the same signature as on other documents I have seen
704 Milton's signature on, to the best of my knowledge. At the time I had shown the original of this report, there was no selling of stock in Rhodesia or Vulcan Mines, nothing I am aware of. I was not aware that at that time there was any program to sell stock in Permanent or Pretoria. I was only furnished that because Newberry was interested in it and wanted me to ascertain how much working capital it would take to put the mine in operation. They were submitted to me without any other thing in view than for me to check it correctly, absolutely no comments, and the original is not available to me. I saw the original of this
707 report about the early part of May, 1930, possibly in April. At the time this report was handed to me I was definitely requested by Newberry to ascertain whether or not the report was accurate, by proceeding to Rhodesia to investigate the property. I proceeded to Rhodesia and investigated the Crescent property. I found the statements contained in Respondent's Exhibit 9 to be true as far as possible, the whole of them were true, as far as my estimation, as far as my investigations proceeded, the whole of them
708 were true. I found them to be true in substance and effect. The report correctly states the surrounding facts, circumstances and existing conditions of the Crescent
710 property. Before going to Southern Rhodesia, I was shown original reports made by C. H. Milton, whom I said later became the Inspector of Mines for Southern Rhodesia, by F. M. Perkins, a member of the Institute of Mining & Metallurgy, and by J. Morris, a mining engineer
711 of long experience. Those two I was shown before leaving. I received the report of J. Morris on the morning

of the 25th of July, when I was leaving for my examination of the Crescent Mine. I received that in Salisbury. I received before going on that property an extract from the Geological Survey Report made by three of the Southern Rhodesia Government Geological Survey Officers. Respondent's Exhibit 12 is a copy of the original extract I saw copied
712 from the report of the office of the Geological Survey in Salisbury. I then went down to the Crescent property.
As to the purpose for which I was sent to Southern Rhodesia by Newberry in regard to the Crescent property,
713 it was to investigate these reports, to a certain extent, and more particularly to estimate the amount of machinery that would be necessary, and the capital necessary to carry on, or to re-carry on and develop the work and extract ore from the Crescent. The rail base where I landed was Salisbury, and the next morning after arriving at Salisbury I went upon the Crescent property. I went to the Crescent mine. I arrived there the same day at noon. I then went upon the property and inspected and investigated it. I did that with a view of ascertaining the accuracy or inaccuracy of the reports to which I have re-
714 ferred, as Exhibits 9 to 12, both inclusive. I made a general survey, a reconnaisance of the property on the surface and as far as it was possible to go underground. I took into consideration the whole of the factors. I remained on the property for five days, on that property and the adjoining property, which was about as far as from here to LaSalle Street, and I came back to Salisbury and reported by cable to Newberry.

Q. What did you report to Newberry?

A. I was thoroughly in accord—

Mr. Overmyer: That is objected to.

The Witness: —with the reports of the other engineers.

715 The Commissioner: Just a minute. Without indicating what my final ruling is on this general evidence, I will overrule your objection on this particular point, Mr. Overmyer.

716 The Witness: I reported to Newbery by cable at that time that I was thoroughly in accord with the conclusions of the engineers who had previously examined this property. I then made a further report to him. I reported by letter somewhere about the 12th of August, a further concurrence in

their report. I said to them about the option: In my letter to him I suggested that the working capital should be in the neighborhood of £30,000. That, at that time, was a mere tentative suggestion. The date of my cable was July 30,
718 1930. I looked at Exhibit No. 9. The document you hand me, marked Respondent's Exhibit 10, is a report of John Morris of whom I have spoken. Exhibit 11 is the Perkins report that I have previously referred to. Document marked Respondent's Exhibit 12 is the extract from the Geolog-
719 ical Survey. I received an extract from this Geological Survey in London and it interested me very much on the voyage out, to read it, and thereafter when I had examined or been on the Crescent and came back to Salisbury, I decided to go to the Survey office and get another copy made, and this is that re-copy of it. From the inspection which I made at that time I sent a cable. I later returned upon the Crescent property many times. I certainly carried on my investigation on those times. Well, I had two engineers with me; one was the late mine captain of the mine who had worked in the mine underground during the whole of its development. His name was Malcolm Condie. The other engineer was a mechanical engineer. His name was Fred Howes. I had the assistance of from fifteen to sometimes twenty-five native workmen. Condie, Howes and I investigated the Crescent and the adjoining property, which we will discuss, I take it, later on, on both properties we spent over three months investigating. During the first investigation that I made, of which I have spoken and referred to as being made prior to my cable of June 30th, and the later inspection covering a period of nearly three months, I ascertained that the statement of facts contained in Respondent's Exhibits 9 to 12, both inclusive, were accurate.

Mr. Gilbert: Now, I offer in evidence these reports, your Honor.

721 Mr. Overmyer: I object.

The Commissioner: Of course, that does not mean he is incorporating the report as part of his testimony.

Mr. Gilbert: I will ask him.

The Witness: I am now definitely willing to incorporate as a part of my report these documents which have been marked as Respondent's Exhibits 9 to 12, both inclusive. I made a note of these in my report.

Mr. Gilbert: Now, may they be received, your Honor?

722 The Commissioner: I will take them. Ruling reserved.

(Whereupon said documents were so received in evidence as Respondent's Exhibits 9, 10, 11 and 12.)

(Thereupon Mr. Gilbert read Respondent's Exhibits 11, 10 and 12.)

727 The Witness: Respondent's Exhibit 13 is what Condie
728 handed to me. That is a true copy and I had it made, myself. I made it from the original. The reason I had it copied was because I had it marked up very badly. I tried to typewrite it. This is a true copy of the original that is not all marked up with the figures and other things. Malcolm Condie is the one who has been mentioned a number of times in the whole of the other reports. He was the mine captain of the Crescent Mines. In other words, he was the man under the manager or superintendent of the mine who was responsible for the whole of the underground work and timbering. I would like to say this, that he would be the man who normally in the mine would probably know very much more about the mine than the mine manager.

729 Mr. Gilbert: I would like to offer in evidence the statement of Condie.

Mr. Overmyer: I object to it.

The Commissioner: Well, at the present time I do not see that in the Condie report you have met the requirements that you essayed to meet in the other report. At least the witness has not testified he is willing to incorporate that report.

Mr. Gilbert: I will ask him.

The Witness: I am willing to make that a part of my report or testimony on this property. I now incorporate
731 that as a part of my report on Condie. The document you hand me is marked Respondent's Exhibit 13. I previously stated that is a report made to me by Condie, the late mining captain of the Crescent mines. In my investigation I determined that the remarks and statements of facts made by Condie in that document are true, as far as humanly possible. I ascertained the truth of those statements sufficiently that I do not now adopt it as a statement of fact upon that property.

732 The Commissioner: There is a good deal in that Condie report that purports to be opinion rather than merely a report of facts.

Mr. Gilbert: I will say this to your Honor, that it is perfestly satisfactory for your Honor to disregard any expressions of opinion.

The Commissioner: Yes, as to the facts that are set out, that is a report, a statement of what he has done, and so forth. If that is the correct test to apply to the witness' testimony, that he was on the ground and observed those things were done, he may qualify it all, subject to the objection. Of course, that is a rather unusual proceeding.

Mr. Overmyer: What does he mean by saying "so far as humanly possible"?

The Witness: Something that is not humanly impossible. I always thought it was a natural corollary.

734 Mr. Gilbert: The first statement concerned whether he was down on the shaft in the Crescent mines. It was not possible for him to go back fifteen years and see it with his own eyes, that this man did go down the shaft.

The Witness: I mean, within the limitations appertaining to the engineering in mining property, and so forth, in field work that I base the conclusion that this report is correct on the factors exhibited in the reports which were visible to me. I could observe whether there was a particular shaft in the place he reported. Before going on the Crescent prop-

735 erty, I secured a plan of the mine showing the shafts and underground work. I secured the plans from the office in London, from Newbery. I know where he secured them. They were sent from Dudgeon at Salisbury. Dudgeon was at one time manager of the mine. The set of plans you hand me marked Respondent's Exhibit 14 are the plans to which I refer, showing the whole of the Crescent workings underground. Those are the plans of the workings of the

736 Crescent mine.

Mr. Gilbert: Mr. Commissioner, those are the plans that the witness has identified as being the plans of the shaft and underground of the Crescent mine, which he secured from Newbery in London.

The Witness: Those plans accurately show the shaft and underground workings of the Crescent mine as disclosed by my inspection.

Mr. Gilbert: I wish to offer the plans, the three sheets marked together as Respondent's Exhibit 14, in evidence.

Mr. Overmyer: Objected to.

The Witness: Here is one profile, sir.

The Commissioner: Well, I will let it go in, subject to your objection. I do not see how this is explanatory evidence.

Mr. Gilbert: Well, it is explanatory of the statement made by the various witnesses, that they find nothing in the files in London to show that there was any property and carrying the inference that there was no property, and they are also to explain the statement that from the investigations made, or inquiries they have made—not investigations, but inquiries—

The Commissioner: Well, let them be marked. Mark
737 them with the identification mark.

Mr. Gilbert: They have been identified.

(Thereupon Respondent's Exhibit 14 so offered was received in evidence.)

738 The Witness: The documents you hand me marked Respondent's Exhibit 15 is a very old copy of the same map from the anterior to the—it was given to me by the State Mining Engineer at Salisbury. It is a state document, or was at one time, and was part and parcel of the reports, which you can see for yourself. It was made in October, 1918. It was in such a dilapidated condition that I have had it backed.

Q. When you say it is a state document, do you mean to infer that it was prepared and drafted by the State Engineer or surveyor?

A. Well, that I cannot tell you, sir. It is possible, because it came from the office of the Chief Engineer of Mines, but I could not tell you that. This is not a state document. I say it came from there. It was given to me by Dudgeon. He informed me that it was an accurate, full, complete and true drawing of the underground work of the Crescent mine. It was produced from the files of his office. This plan here shows all the same underground workings, Respondent's Exhibit 14. It discloses the fact of the underground workings of the Crescent, those that were stopped out, those that were remaining. It shows a deep shaft at that level which had a large number of pencil marks on it, which I marked on it myself. I might tell you this was a map that was used in the

field. I erased the pencil marks where they are not in
740 indelible pencil. When I say "used in the field" I mean I went in the field and checked up as accurately as possible. We checked the surveys as far as possible from this map. You can see it is badly worn. It got so bad that it had to be mounted on linen or some cloth, and that mounting was put on because it was in such a dilapidated condition. I only

had it done a little while ago. I have told the Commissioner everything that that plan discloses relative to that mine. I do not think there is anything that I have neglected.

Mr. Gilbert: I wish to offer in evidence Respondent's Exhibit 15. May it be received subject to the same general objection?

The Commissioner: It will be received subject to the objection in the same way.

(Whereupon the map so offered was received in evidence as Respondent's Exhibit 15.)

742 The Witness: The parties who had the option of the Crescent mine were warranted in exercising that option. I did take specimens of ore from the Crescent mine. I took some of those specimens with me back to England; submitted them to Newbery. I brought a portion of those specimens to the United States. I think there is one specimen of ore 743 from the Crescent, one marked Respondent's Exhibit 16. That is Crescent ore. I got it off the dump in the ordinary course, I picked it off the dump at random. I had a specimen assayed by the same assayer as the other. I submitted the specimen and report to Plummer with Hunt & 744 Company of Chicago. I had that specimen continuously in my possession from the time I took it from the dump until I submitted it to Plummer on September 19, 1931, in Chicago. That is half of the same specimen that I submitted to Plummer.

Mr. Gilbert: I would like to offer this specimen in evidence, your Honor.

Mr. Overmyer: Objected to.

The Commissioner: It will be received subject to the objection. Of course, there are some other particular points of objection that might be offered to these specimens, as I indicated yesterday. I will take it subject to the objection.

(Whereupon the specimen of ore referred to was 746 marked Respondent's Exhibit 16 and so received in evidence.)

The Witness: During the course of my examination of the Crescent mine I reported from time to time to Newbery, both by cable and by letters. Later I made a more extensive report, The documents you hand me, marked Respondent's Exhibit 17, is my report of the Crescent mine made to the Permanent Investments, Ltd., of Guernsey, upon Newbery's order. This is a copy. The original is in the same condition

as a previous report. I mean, a part of the court files in
747 England, so far as I am aware. It is not available to me.

Mr. Gilbert: I wish to offer in evidence Respondent's Exhibit 17, the report of Major Pearson, of the Crescent property.

Mr. Overmyer: Oh, I object.

The Commissioner: Well, on the same general grounds
748 as stated before. I would like to ask you for a minute, off the record, if necessary; you explained the failure to have these original reports, which I suppose are in the possession of the defendants, the respondent here, or his associates. They would be the best evidence, probably. Do I understand that these original reports were used in evidence in the trial in England?

Mr. Gilbert: They were produced, your Honor, as I understand— I do not quite understand what "producing" means—but they were produced. They were not, as I understand it, read to the jury or given to the jury, but they were in the courtroom and the clerk got hold of them and still has them.

Mr. Schwartz: And we cannot get certified copies.

Mr. Gilbert: And they will not certify copies.

Mr. Schwartz: They will simply impound them.

Mr. Gilbert: I don't know what they did.

Mr. Stansbury: They do not have the practice over there that we have here.

The Commissioner: Did they go in evidence in that case?

Mr. Stansbury: No.

Mr. Gilbert: They are a part of the Court's file, and that is as far as I can answer your question. We cannot get them. That I know.

Mr. Schwartz: And we cannot get a certified copy of them.

The Commissioner: Well, what I am interested in, in a way—not that I regard it as even persuasive as to what ruling I make here—what I am really interested in its whether
750 they were admitted in evidence on the trial.

Mr. Gilbert: They do not offer things like we do. They do not say "I offer Exhibit 102" they just say "I produce a document marked exhibit so and so" and then that goes into the clerk's hands and that is his. And they won't certify to it, I suppose on that account. I don't know. But the originals went there, as Major Pearson told you.

The Witness: My original reports were submitted by the

solicitors of Newbery to the court in London. That is all I know. I know nothing further than that. I was not asked about my reports at all on the witness stand. I was not asked to identify them. I was not asked any questions in connection with them. All I was asked was in relation to the schedule which I told you yesterday. I did not get them back. I cannot get them back now. I tried before I
751 came but they would not leave loose of them. The question that was asked had to do with the adequacy of a schedule to complete this property. Admittedly I could answer from those schedules and did with one exception.

Mr. Stansbury: As a matter of fact, it was a gorgeously badly-tried lawsuit over in England.

Mr. Gilbert: Well, I will offer the report, your
752 Honor.

The Commissioner: It will be received subject to the objection, as all of this testimony here.

(Whereupon the document was marked Respondent's Exhibit 17 and so received in evidence.)

753 (Thereupon the witness read portions of Exhibit 17.)

754 The Witness: There was attached to my report a drawing and made a part of my report. As to the drawing, I wanted a small drawing showing the connection between the Gael and Crescent and the Northern Star and this was made for me by the office of the Department of Mines at Salisbury with the assistance of the mining engineer. It is stamped with the Department's office stamp and initialed by them. The Northern Star was on an adjoining property. It shows on the part which will come before you tomorrow, also. It shows the whole of it.

(Whereupon the witness, Major Pearson, was temporarily withdrawn.)

CLAYTON E. PLUMMER, a witness on behalf of the respondent, being first duly sworn, testified as follows:

Direct Examination by Mr. Gilbert.

Live at 313 South Katharine Avenue, La Grange, Illi-
756 nois. Am a chemical and metallurgical engineer. Am associated with Robert W. Hunt & Company, 2200 Insurance Exchange Building, Chicago, Illinois. Robert W. Hunt & Company have offices throughout the United States and

Europe. I am in charge of all commercial, metallurgical, chemical and electrical engineering research of all offices of Robert W. Hunt & Company. As to my education: Graduated in chemical engineering, University of Michigan, 1914. Master's degree in analytical chemistry, University of Minnesota, 1920. At that time I took graduate work in metallurgical engineering at the University of Minnesota; graduate
757 work in business administration, York University, 1921; night work that was there. As far as experience: In 1914, chemist, Hercules Portland Cement Company in Canada. The balance of 1914 and '15 I taught chemistry in high school, coached athletics. In 1916 I was assayer for Falkenburg & Locks, Seattle. From there I went to the Consolidated Mining & Smelting Company, Trail, British Columbia, Canada, assaying and chemical analysis. From there I went to the American Smelting & Refining Company, Denver, Colorado, as a chemist, the Globe Smelter. I went down in charge of assaying and chemical analysis for the Bradshaw Reduction Company, Crown King, Arizona. From there I went to the War Department as an inspector at Pittsburgh, Pennsylvania.
758 In that work the inspectorship was connected with a refrigerating plant that went to France the early part of the war, connected with refrigerating parts. It had nothing to do with chemistry. From there I went as Chief Chemist with the United States Bureau of Mines, stationed at Minneapolis, Minnesota. That was the United States Bureau of Mines station of the United States Government, where I did everything relative to chemical analysis, assaying, and so forth, research. From 1920 to 1928 I was a chemist and metallurgist for the Union Carbide Company, the first year, 1920 to 1921 at Niagara Falls, where I did work in assaying the analysis of all complex metal products. At Niagara Falls I was with the Electric Metallurgical Company, a subsidiary of the Union Carbide Company; from 1921 to 1928 with
759 the Union Carbon & Carbide Research Laboratories, Thompson Avenue and Morley Street, Long Island, New York City. There I was umpire and referee chemist of the Union Carbide, developing new methods in chemical analysis. August 1, 1928, I came with the Robert W. Hunt Company as technical director of chemical and metallurgical engineering I first met you about one week ago, September 19, 1931. I came to this office the 19th of September, 1931. There besides you I met Major Pearson, who sits here, who has been tes-

760 tifying in this case. The same gentleman. You then and there told me that you had certain ores that you wanted assayed. Major Pearson handed me the ores. Eleven samples of ore were handed to me by Major Pearson, designated as Crescent, Spitzkopie No. 1, Spitzkopie No. 2, Ubid, Schettler No. 1, Ubid-Schettler No. 2, Gael; Neardy No. 1, Neardy No. 2, Otjzongati Extension Nos. 1, 2 and 3. I was not told at the time for what purpose the assay was desired, neither did I inquire. I was not interested. I had no idea what the case was, or what matter it was until last Friday. My
761 results were ascertained prior to that date. The ores were then very carefully sampled by myself and under my direction. The samples were very carefully ground and prepared for chemical analysis. The remaining portion of this sample was sealed by myself. By this sample, I mean representative of this material here and of the others mentioned in my report. The samples were very carefully sealed up so that there would be no mistake. The samples were analyzed for copper by three chemists, myself, Bolger and Richards of the Robert W. Hunt Company. The samples were assayed by myself for gold and silver. The results obtained by myself, C. E. Plummer, for copper on Crescent was 9.31. That is quantitative. William Bolger, 9.34 per cent copper on Crescent. E. J. Richards obtained 9.16 per cent copper on Crescent.

Spitzkopie No. 1, C. E. Plummer, 9.49. In Crescent there was a trace of gold and silver. By a trace we mean less than one one-hundredth of an ounce, an amount too small to weigh accurately.

Spitzkopie No. 1, C. E. Plummer, 9.49 copper. William Bolger, 9.50 copper; E. J. Richards, 8.96 copper. Gold, .05 ounces per ton. Silver, 3 ounces per ton. I believe the British report pennyweights, which is 20 pennyweight to an ounce, so that you multiply your ounces by 20.

763 Spitzkopie No. 2, copper, C. E. Plummer, 33.01; William Bolger, 33.30; E. J. Richards, 33.16. That is copper. Gold, a trace. Silver, 3.2

Ubid-Schettler No. 1, copper, C. E. Plummer, 43.52. William Bolger, 43.84; E. J. Richards, 43.32. Gold, .05 ounce; silver, 1 ounce.

Ubid No. 2. Copper, C. E. Plummer, 33.60. William Bolger, 33.82; E. J. Richards, 33.38. Gold, a tenth of an ounce. Silver, a trace.

Gael, Plummer, 33.79. Bolger, 33.66. Richards, 33.38. Gold, one-tenth ounce. Silver, 2 ounces.

Neardy No. 1, 28.51, Plummer; 28.76, Bolger; that is copper. 28.64 copper by Richards. Gold, .71 ounce. Silver, 1.5 ounces.

Neardy No. 2, per cent copper, C. E. Plummer, 33.23; William Bolger, percentage copper, 33.66; E. J. Richards, percentage copper, 33.02. Gold, .07 ounce; silver, .5.

Otjzongati Extension No. 1, copper, C. E. Plummer, 20.38; that is copper. William Bolger, 20.56 per cent; E. J. Richards, 20.32 per cent copper. Per cent gold, .07 ounces; silver, 1.5 ounces.

Otjzongati Extension No. 2, C. E. Plummer, 23.24 per cent copper; William Bolger, 22.84; E. J. Richards, 22.08 per cent copper. Gold and silver, a trace.

Otjzongati Extension No. 3, C. E. Plummer, obtained 28.54 per cent copper; William Bolger obtained 28.90 copper; E. J. Richards, 29 per cent copper. Gold, .05 ounces and silver, a trace. The document which you hand me, marked Respondent's Exhibit 17-A is my report of the analysis made upon the exhibits referred to. That I mentioned as Crescent, Spitzkopie 1 and 2 and Ubid 1 and 2, Gael, Neardyland 2 and Otjzongati Extension 1, 2 and 3. I swear to that report
765 now. It is not previously sworn to.

Mr. Gilbert: I wish to offer in evidence Respondent's Exhibit 17-A.

Mr. Overmyer: Object to it on the general grounds as previously stated.

The Commissioner: Any special grounds?

Mr. Overmyer No. I do not think that there is anything special to object to.

(Whereupon the document was marked Complainant's Exhibit 17-A, so offered and received in evidence.)

766 Witness: At the beginning I examined these ores. That is, sampled the samples. I did that by taking a half of the sample submitted and making a total sample down to approximately 100 mesh, from which sample the results are reported there. Half sample submitted here, prepared for a sample, the total was taken and crushed down; it is crushed down to approximately 100 mesh, and half of the sample
767 he submitted from that sample for chemical analysis. is taken. The sample that we took which was representative of this was another half on this side (indicating), refer-

ring to Complainant's Exhibit 16— I was speaking of the Crescent. It was characteristic of the half that we took of this other half of the material containing a similar amount of the red and the green and the gang material. We tried to take our sample, which was representative, which was half of the piece submitted. We did the same with each sample.

768 The sample was broken down and put through a disc grinder to make it into a fine powder, so that the sample we took for chemical analysis was representative of the sample presented. The sample was dried at 105 degrees Centigrade to remove the moisture, and that sample was thoroughly mixed and a portion for chemical analysis taken The operation of the chemical analysis, in a brief way, is this: The sample is dissolved in hydrochloric, nitric acid and sulphuric acid and slag is removed by hydrofluoric acid until we have the sample in solution. The hydrofluoric acid is removed by taking the sample through fumes of sulphuric. The sample is then treated with ammonia to remove the iron, a double ammonia treatment to insure complete removal of the copper from the iron by hydroxide precipitate. The copper sulphate solution is then electrolized and the copper obtained in a metallic form on the platinum cathode. The copper is

769 weighed direct as metallic copper. That is a brief statement of the methods as used by the United States Government Laboratory. As to the methods used by the other two chemists, different weight samples were taken. I used a gram sample and they used a half-gram sample. The methods were changed somewhat. In one case one chemist precipitated electrolytically for separation of iron. This method is possible when the iorn is not excessively high. The three of us got substantially the same results. We sent out one

770 of these specimens to another chemist to check our own analysis for gold. I did not happen to ever hear of John Factor before I came to this court room last Friday. I should have heard. I heard later it has been in the newspapers quite a little bit. I never talked to Factor about this matter before coming here or since. I have not talked to Factor to this moment, not to my knowledge. I might have

771 talked to somebody in the court room. I don't know Mr. Factor at all. Respondent's Exhibit 16 handed to me by Major Pearson is the one to which I have testified. The one you hand me is Respondent's Exhibit 7-A, which was handed to me by Major Pearson, and is the one I referred

to in my testimony as the Ubib-Schettler No. 1. That
771½ is Exhibit 7-A. Respondent's Exhibit 7 was handed to
me by Major Pearson. That is referred to in my testi-
772 mony as Ubib-Schettler 2. Respondent's Exhibit 3 is a
specimen of ore handed me by Major Pearson to which we have referred in this testimony as Spitzkopie No. 2. Respondents' Exhibit 3-A is a specimen of ore which was handed to me by Major Pearson and referred to by me in my testimony as Spitzkopie No. 1.

Mr. Gilbert I have got those three in there. I will take them out. Now, these have not been marked. If you will take those three and mark them, please. The first one is marked Gael, Respondent's Exhibit 18; Neardy No. 1, Respondent's Exhibit 19; Neardy No. 2, Respondent's Exhibit 19-A; Otjzongati Extension No. 1, Exhibit 20; Otjzongati Extension No. 2, Exhibit 20-A; Otjzongati Extension No. 3, Exhibit 20-B.

Witness: Specimen marked Respondent's Exhibit 18
773 was handed to me by Major Pearson. I referred to that
in my testimony as "Gael." Specimen marked Respondent's Exhibits 19 and 19-A were handed to me by Major Pearson, as I referred to them in my testimony as Neardy No. 1 and 2, Neardy No. 2 being Exhibit 19-A and Exhibit 19 being Neardy 1. Specimen marked Respondent's Exhibit 20 was handed to me by Major Pearson and referred to in my testimony as Otjzongati No. 1. Specimen marked Respon-
dent's Exhibit 20-A was handed to me by Major Pearson
774 and was referred to in my testimony as Otjzongati 2.
Specimen marked Respondent's Exhibit 20-B was handed to me by Major Pearson and was referred to in my testimony as Otjzongati No. 3. All of those specimens were handed to me by Major Pearson on the 19th of September, 1931, in Chicago, Illinois. Referring to Respondent's Exhibit 20-A, besides copper, gold and some silver in the larger specimen, it contains sulphide of molybdenite. Molybdenite is sulphide of Molybdenum. It is used as an addition to steel in making alloy steel. It can be used for other purposes. It is a very valuable metal. It came into use rapidly in the last few years. Without assaying that ore and without analyzing it I would not want to commit myself as to the amount of molybdenite in that ore. This is very high grade. The crystal
material here is almost pure molybdenum sulphite, I
777 would say. In my experience as a chemist making

analyses on ores and precious metals. I have become acquainted with high grade copper ore. I would consider running over 10 per cent as high grade ore. Jaclin made a
780 fortune on ore running around 2 and 3 per cent copper.

It is simply a matter of opinion as to whether there is a general standard for high grade ore. As to the prevailing opinion on that subject, we always refer to high grade ore as Kennicott ore, which is a sulphide copper, which in some cases runs almost as pure as the chemical formula. That is very high grade ore. Mines have been profitably operated on copper content of 2 and 3 per cent. I have analyzed
781 copper ore from a tenth to sixty per cent.

(Whereupon an adjournment was taken to 2:00 P. M.,
782 September 30, 1931, at which time the parties met pursuant to adjornment.)

CLAYTON E. PLUMMER, a witness on behalf of the respondent, having been theretofore duly sworn, resumed the stand and testified as follows:

Direct Examination (Continued) by Mr. Gilbert.

783 The Witness: The Robert W. Hunt Company has been in business approximately forty-four years. During all that period of years a part of their business has been that of assaying and analyzing metals. Referring to Crescent Respondent's Exhibit 4, in addition to what I told you yesterday, I would like to call the attention of the Commissioner, in regard to that specimen, that it is possible
784 for anybody having seen copper ore for a period of years and at the same time having sent samples to laboratories to form an opinion as to the approximate analysis of a metal. In looking at that material he would take the white hard material and see that it is quartz. If the material contained approximately half or two-thirds quartz, he would know immediately that that did not contain much copper, because we do not have the white copper mineral. Look at that green material, which is very characteristic of copper carbonate ore, malachite; look at the red material, which is characteristic of copper oxide, he could approximate that ore may run anywhere from 7 to 12 to 15 per cent. From his wide experience in having seen the material and later having seen

the analysis, it registers in his mind as a certain class
785 of material. I heard the testimony here yesterday, all of it. I noticed in one of the exhibits or reports a reference was made to an analysis of Crescent ore of a larger quantity than I had the opportunity to analyze. As to whether that checked substantially with my analysis of the composition of the Crescent ore that I had before me, I recall to mind that that large sample that was taken to represent the larger amount of material ran approximately 10 per cent copper. My analysis on the Crescent ran approximately 9½ per cent copper. Take Spitzkopie No. 1, which is Respondent's Exhibit 3-A, in addition to what I have previously testified to about that ore, it contains a large per cent
786 of hard white quartz material. Quartz is another name, mineral name for material of the same composition as sand. The chemical term is silica. Look at this material. I would classify that as good ore, not what we call real rich ore, because of the large amount of white material, quartz, which is not copper ore, of course. It contains—the rich copper ore is this material here, which is undoubtedly a sulphide copper, which might be either bornite or other copper sulphide mineral. The Spitzkopie No. 2 ore contains a large percentage of copper sulphide ore, showing or indicating also a large amount of green, indicating that that ore is rich ore. I noticed yesterday that the term "self-fluxing" was brought up. That might be interesting to those concerned, because it is a valuable thing in an ore. Certain mines ship ore that may have most of the gang as quartz. That means that unless another mine ships ore that has a lot of basic material, like, for example, on iron or some of the schists or talcs,
797 which are magnesium, aluminum silicate, it means sometimes that they are penalized because they have to buy flux. A self-fluxing ore is an ore that when placed in a blast furnace forms a slag, because it has in that ore both acid materials, such as quartz, alumini and basic materials, such as lime, iron, magnesia and the electrolytes, which, of course, are basic such as slag forms, which are called self-fluxing ores. From a study and analysis of the various specimens here before me, I can ascertain whether or not any of them are self-fluxing. There is a large amount of iron in the Crescent ore, which helps to make it self-fluxing. The ore on Spitzkopie No. 1 is more on the acid side; but for this bornite it would be a copper iron sulphide and be an

aid in self-fluxing. Spitzkopie No. 2 is similar in re-
788 gard to flux. Respondent's Exhibit 7, Ubid, it would be very easy for anyone having had much experience with copper ores to know at once that was a very rich ore. When that ore is dissolved in acid, it shows practically no inert or siliceous material. You see, or you notice the absence of this hard white material in this ore. This is a safe friable ore made up of practically two materials. The red would be a copper oxide called coprite. The green would be a carbonate called malachite, a very rich ore. You would not have to submit that to chemical analysis to tell that was a rich carbonate ore. This type of ore is so rich in copper you would probably gain your fluxing value from ore of a lower grade which would be smelted at the same time which would make up, so you would have your flux there. Referring to Gael, Respondent's Exhibit 18, I would say that this ore had a very good chance of being self-fluxing. I be-
789 lieve that has some dolomite in it. It has iron in it and is made up of a green material which is malachite or copper carbonate and the red material seems to be a siliceous gang impregnated with copper oxide. It also shows some signs of bornite and maybe some chalcocite. I would consider that a specimen of rich ore. The specimens of Neardy No. 1 and 2 are very very similar. This material here is somewhat siliceous material, but this ore is very rich, being practically a rich copper carbonate malachite, as you see here. In regard to the fluxing of that ore, this ore is very evident on the face of it. This material here has the acid called quartz, and on this side we have what you might call a talc or schist, which is principally mag-
790 nesium, alumina silicate, which combined together would form a slag, so that your copper could be brought down. These exhibits, Neardy No. 1 and 2, are Respondent's Exhibits 19 and 19-A. Taking in my hand Otjsongati Extension 1, 2 and 3, which are Respondent's Exhibits 20, 20-A and 20-B, I would say this ore is not as high grade an ore as the other material, because of the large quantity on this side of gang material. I believe that the gang material would be almost self-fluxing in itself. It is probably made up of calcium, aluminum, silicate rock itself in pure form, highly siliceous. This material on this side is rich, made up of copper sulphide material, as you see, the blue green and the green copper carbonate mineral. That was Otjson-

gati No. 1, Respondent's Exhibit 20. Otjsongati No. 2
791 shows two different carbonate minerals. The green is malachite, the same as you see on this copper material out there on those stacks, where you put in copper, and the carbon dioxide from the air forms the copper carbonate. This blue is azurite, another carbonate mineral. That ore is what I would say is self-fluxing, made up of elements both acid and basic. I would call it a high grade ore, not as high as the three ores mentioned previously, but considerably higher than this material, because you don't have so much of the gang material. I am referring to the Crescent. Referring to Otjsongati No. 3, Respondent's Exhibit 20-B, that ore attracted my attention when I saw it because of my interest in molybdenum, having developed some of the molybdenum alloys recently brought on the market. This is molybdenite, sulphide of modybdenum. If it has much of that, it is a valuable mineral. The ore itself is very different than this. It has not so much of carbonate. There was probably some bornite and some copper oxide impregnated in the highly siliceous material. It is a high grade
792 ore. Molybdenum is an element when added to steel is used as a substitute for tungsten for cutting tools. It forms a rather suitable carbide, giving an exceptional hardness to high grade cutting tools containing molybdenum. Molybdenum in quantities as high as 20 per cent is used with nickel to form an alloy resistant to hydrochloric acid. To my knowledge modybdenum nickel alloys are the most valuable commercially of hydrochloric acid resisting alloys on the market today. Molybdenum can be used for other purposes. I believe it is also used in ceramics, to a certain extent. Its main value is for alloy work, molybdenum alloys, steel work. Molybdenum is finding a wide application in recent years as an addition to cast iron, because of the tendency to give
793 a close grain to cast iron of higher strength. It is a valuable metal. I believe I paid $1 a pound for the metal when I was using it. There is a substantial economy in mining copper ore which is self-fluxing because you do not have to be penalized because of its being too acid or too basic. In most cases there is an advantage in having self-fluxing ore because some smelters will penalize you for
794 not having self-fluxing copper. It is a substantial advantage to have self-fluxing ore.

Cross-Examination by Mr. Overmyer.

The Witness: My examination had to do with these samples alone. One of those I mentioned as having one side where clearly there was a copper mineral and on the other side something else. This part is your copper-bearing mineral. This is your gang material. The one I am talking about is Otjsongati Extension No. 1, Exhibit 20, I guess. We
795 took a sample so we had half of the sample, representing this material, and the other half, this. In other words, if you take this and grind it up, the results will be practically the same as the analysis reported in my report. The copper could not have been knocked off and changed if done by a person who knew how to prepare the sample. It could be done, but we did not do it that way. This ore in here is roughly 33 per cent. I do not have the record before me, but I guess you can look at it. I may be off a few per cent, probably am. The gang material in here is the talc
796 or schist, magnesium, magnesium quartz. The talc is clear enough. There is a whole family of magnesium silicates. This is Exhibit 19. There was quartz in that. In extracting the copper, it is a commercial advantage if you are dealing with highly basic ores, because it acts as a flux, counteracts it. This gang, if you analyze it, would be possibly highly made up of magnesium, aluminum silicate itself. That is Exhibit 20. The indications are that all the gang material is flux. We did not analyze the gang material separately. The material is highly effervescent when we add hydrochloic acid showing we have plenty of carbonate and due to high amount of inert siliceous material. That could indicate that the material has enough of both. You can balance your ores in smelting so if you do happen to have ores that are highly siliceous from one place, you would naturally mix those up with ores that are highly basic, which you do. That is what the chief metallurgist is doing so he can balance his ores going into the furnace so he can have them self-fluxing. Basic means those minerals like lime, magnesium, magnesium oxide, iron, sodium potassium oxide. Those are basic. The main ores in metallurgy, in rocks, we refer to as quartz. Aluminum oxide is either basic or acid, depending on whether you have a lot of acid or basic. If your ores are very highly basic, then it forms, for instance, iron aluminate. If you have ores that are very highly the other way, you can form aluminum silicate. They can swing

either way. It is practically on the fence. That is quartz appearing on Exhibit 16.

798 Depending upon the composition of the ore, we use different processes. Sometimes we use a hearth for reverberation ore. We could use a blast furnace. Finds in a blast furnace cause a great loss of material. Therefore there is a great disadvantage, but you cannot get a large quantity of material in a blast furnace. These ores are adaptable to

800 the blast furnace if that is what you would like to know, all of them. As to whether I wish to amend my first statement that as an engineer I couldn't testify to that, it so happens that I have had that experience and am willing to give it to the court. I cannot tell where the samples came from. They were handed to me by Pearson the 19th of this month. I don't know whether mining of copper ore in the northern peninsula of Michigan has been stopped.

801 Neither do I know that it has dropped off considerably up there. We are getting a lot of nice native copper from Michigan. We are getting a lot of copper from down in Arizona, quite a lot of it from West California, up in the Canadian Rockies, up around Trial, British, Columbia, out in Wyoming, Nevada. As a matter of fact copper comes from all parts of the world. We have some deposits outside of this country that are exceptionally rich. It is a known

804 fact that there are copper deposits all over the world. I wouldn't say that copper and iron are the most com-

805 monly found metals. We have a large quantity of clay which is the basis of aluminum metal. We have a lot of

806 sand which is the basis for silicon metal. We have a lot of material which is used in magnesium metal which is used for flash lights and light ware and things like that. Copper in small quantities does occur widely distributed over the world. As to the human body, I wouldn't want very much of it in my body. I wouldn't live long. As to plant life I have never analyzed any bodies. I can't say as to that. The copper contained in ore in pure minerals, very high grade minerals runs up around 60 per cent. Metallic copper will run considerably higher. Metallic copper is liable to run

807 up to 98 per cent easily. Again metallic copper as you get it in Michigan where in nature it has been reduced to metallic ore, also certain parts of Arizona. All copper, as metallic copper, has a commercial use. If you have a high grade ore in this country, there is no occasion to go to

808 Africa for it. I don't know whether at the present time the fields in Michigan have been exhausted. I have never been up there. I am not a mining engineer. We have men in our company who can answer those questions. I didn't go into any mines to take these samples. They were handed to me. It wouldn't have been easy in Michigan to get samples out like these. I don't think I ever saw any like them in Michigan, never saw any that rich in Arizona. I would call the Michigan ore metallic copper, the real rich, that you are taking about up there. Metallic copper isn't necessarily much
809 easier to get at. As to whether it is less expensive to refine, it depends upon power facilities and a lot of other
810 things. I didn't analyze these to determine the amount of molybdenum in them. From a visual inspection, it
811 looks encouraging as to the commercial valuable amount. I did not analyze it.

HARRY BRYAN PEARSON, a witness on behalf of respondent, having been previously duly sworn, resumed the stand and testified as follows:

Direct Examination by Mr. Gilbert (Continued).

On my direct examination I have said that I procured Respondent's Exhibits 3, 4 and 7, the specimens known as Crescent, Spitzkopie and Ubib, from the property which I have described as being called by those names; that is, Crescent, Spitzkopie and Ubib. I did not get any of them from Michigan, neither from the Field Museum or Arizona, nor Nebraska.

815 Mr. Gilbert It may be stipulated for the record that the copy, Respondent's Exhibit 21, is a true and accurate and complete copy of Exhibit 58, introduced at the preliminary hearing in England, in a proceeding charging the respondent and others with consipracy to defraud, held before alderman Jacobs. Isn't that true?

Mr. Overmyer: Simply that this Exhibit 58 referred to in that—

Mr. Petit: Printed transcript of the record.

Mr. Overmyer: —extradition sent from England.

816 Mr. Gilbert: That is as far as you wish to stipulate, Mr. Overmyer?

Mr. Overmyer: Yes.

Mr. Gilbert: All right. It is stipulated it is a true copy of that.

Mr. Overmyer: Yes.

(Said document marked Respondent's Exhibit 21, was thereupon offered and received in evidence.)

817 The Witness: I saw the original of that document. As far as I have read the document, I know that copy to be a true copy of that document.

The Commissioner: It is stipulated it is a true copy you have identified it I think as being Exhibit 58 that was referred to in the depositions offered by the demanding government.

819 Referring to Respondent's Exhibit 21, I can look at the schedules of properties attached to that agreement and tell whether the description of the property there, which is evidently a general description of the property, substantially describes it so that I can say whether or not they do or do not refer to the property I have testified to under the names of Crescent, Spitzkopie and Ubib.

820 "Q. Now, Major Pearson, I hand you Respondent's Exhibit 21, which I have just read to the court, and ask you to look at the schedule of properties attached to that agreement. (Handing paper to witness.) Major Pearson, can you look at the schedule and tell us whether or not the description of the property there, which is evidently a general description of the property, substantially describes it so that you can say whether or not they do or do not refer to the property you have testified to under the names of Crescent, Spitzkopie and Ubib?"

Mr. Overmyer: I object. There is no adequate legal description yet of the properties he has testified about. If there were, it would then be a question for the court whether or not the two descriptions fit.

The Commissioner: Objection overruled. He may answer.

A. Having located those properties from the reports on them I can testify that this description rotatively applies to those three properties. By reading those descriptions alone they substantially describe in the one instance Block A, Crescent; Block B is a general description of Block B in the schedule, and is a substantial description of Spitzkopie.

826 The descriptive matter under the heading Block C in

the schedule substantially describes the property which I testified to here as being Ubib property.

Mr. Overmyer: I again want it understood for the purpose of this record that I am objecting to each and every one of the questions that have been answered or that have been propounded and the answers made.

The Commissioner: The record may show that. As to the matter of error in Block B, as to the distance referred to there, as pointed out by counsel for the demanding governments, is that that describes the property as being 20 miles from Windhoeck. The property is not 20 miles from Windhoeck; it is 20 miles from the railroad that runs to Windhoeck and is 62 miles from Windhoeck. If Newberry or any
828 one else represented the properties that I called by the names Crescent, Spitzkopie and Ubib as valuable mining propositions the shares of stock of any company which might own them to be of considerable value, in my opinion he was justified in so doing.

Mr. Overmyer: Your Honor, I object.

Mr. Gilbert: Just a minute.

The Commissioners: Objection sustained.

The Witness: In addition to my examination and investigation of these three properties which I have mentioned, in arriving at my opinion in regard to them, I obviously took into consideration not only the results of my own examination but the reports of the other engineers that have been introduced here.

829 None of those reports is unfavorable to this property. I also took into consideration the information I have testified that I gained from Dudgeon the assistant inspector of mines of southwest Africa and Tullock, the Chief Inspector of Mines. Tullock is the Inspector of Mines for southern Rhodesia and is the inspector at this moment—or he was, when I heard a week or so ago.

Q. Major Pearson in your opinion as a mining engineer of 38 years experience can you give us an opinion as to the amount of working capital which it would require to place these mines in operation?

Mr. Overmyer: I object.

A. I can.

The Commissioner: Well, he can answer the question whether or not he can, although it is not material here.

Mr. Overmyer: Simply that he has not shown the quali-

fications, that it is not in issue. He has not shown facts essential to base an opinion on.

833 The Commissioner: There is no dispute here that the only sort of evidence on behalf of the respondent is evidence of a substantial character.

Mr. Gilbert: I am sticking right to that.

The Commissioner: He may answer subject to the objection. I will make the final ruling on that. I think that he answered that he could, before the objection came in and I commented on that and said "Well, let the answer stand," anticipating the objection.

834 (Witness) Taking as a premise that the evidence of the demanding government in this case has disclosed that the Vulcan Company received the sum of 3000 pounds sterling for 66,000 shares of stock of that company, and that at the present time substantially all of the 33,000 pounds sterling now remains in the bank account of the Vulcan Company and in my opinion the 33,000 pounds sterling would be sufficient working capital to put these properties in operation. I made an estimate in the case of the Crescent of the value of the old workings and placed upon that property the present value of them. I certainly cannot answer the 837 question as to what in my estimate would be the present value of the old workings in place of the Crescent mine, without referring to my notes.

Mr. Petit: Objection is made.

The Commissioner: You may refer to such notes to refresh your memory.

838 The Witness: But I do not need to refer to notes for that; the work has already been done upon the Crescent property, and has cost between fifteen and twenty thousand pounds; I mean the old work: If the property is reworked, in all probability it would be worth more than that. If 839 they are not reworked of course it would not be worth more than that, holes in the ground.

Mr. Gilbert: The question is directed to what would be the value of the work to any one who was going to rehabilitate the mine. That is what the question was directed to.

The Witness: I made an estimate of the value of the work which had previously been done on that property, the Spitzkopie property, but any prospective acquirer of that property who wished to open it up. That estimate was between 840 5,000 and 7,000 pounds. That is the estimate of cost if

the mine is reopened as in the case of the other mine it would be worth very much more. I have stated 33,000 pounds sterling would provide sufficient capital to carry out the development work upon this property so as to rehabilitate it and put it back into operation. I would expend the money first on the Crescent; second on the Spitzkopie and the Ubib. I would allocate the Grescent about 20,000 pounds and about 7,500 pounds to the Spitzkopie and about 2,500 pounds to the Ubib, which makes a total of 30,000 pounds. If properly used I think that is sufficient to place the Crescent, the Spitzkopie and Ubib back in operation; I made an estimate of the cost of dewatering, reconditioning and rehabilitating the Crescent Mine, estimating the amount of machinery, transporting equipment and all other needed work upon that property to place it back in operation; I have that estimate with me.

841 The document you hand me marked Respondent's Exhibit 22 is the estimate to which I have just testified. With the plan, that is, a correct statement of my views of the necessary working capital to rehabilitate the Crescent property and put it back in operation.

Mr. Gilbert: I wish to offer the Major's esitmate in evidence, which has been marked Respondent's Exhibit 22.

Mr. *Overmyer:* I see no need of objecting; you understand there is a standing objection.

(Whereupon said document marked Respondent's Exhibit 22 was offered and received in evidence.)

843 The Witness: Exhibit 22 shows that the machinery costs for the necessary machinery to rehabilitate the Crescent mine, involving freight and all other charges is a total of 5,940 pounds. The sinking and drifting operation underground to block ore out and the rest totals 2,800, leaving a balance of 260 for emergency. This estimate includes all immediate overhead charges for staff and mine and totals 9,000 pounds. Reserve for smelting which would be adapted to the type of ore mined, the sum of 10,000 pounds. For unforseen charges 1,000 pounds, making a total of 20,000 pounds. My estimate gives detailed items of machinery, transporting equipment and other equipment to which I referred and includes labor costs as well. Assuming the work covered in my estimate to have been accomplished on

844 the Crescent property and for the amount of development work completed, the property should be capable of an output of a hundred tons per day, or 30,000 tons per

annum. I have taken into account 300 working days. You can have 300 working days under the climatic conditions
845 existing at the Crescent property. Under present conditions and taking the price of copper as it exists at this time and gold, you could make on the Crescent mine a net profit of 30,000 pounds or over per year, on the present conditions or the conditions when this was made a few months ago; profits amounting to 30,000 per year inclusive of the gold. That is taking into consideration the depression
846 that exists over the world at the present time as this was made a month or so ago. The conditions have not changed much in the last two months, at least within a reasonable time; as to the Spitzkopie I made an estimate of the cost of reconditioning, dewatering, performing all necessary underground work, including the erection of a head shaft, hoisting machinery, pump and compressor, electrical power, surface structures, mining tools, transport, fuel and labor costs, to put the Spitzkopie property in operation. The document you hand me marked Respondent's Exhibit 23 is the estimate to which I have just referred and correctly states my conclusions and correctly states my estimate of that cost.

Mr. Gilbert: I offer in evidence Respondent's Exhibit 23, covering the Spitzkopie property, the estimated cost of reconditioning and putting the property in operation.

847 The Commissioner: Some objection. I am taking it these exhibits are all offered and objection has been made. Mr. Overmyer stated a little while ago it was not necessary to make it.

(Whereupon said document so marked Respondent's Exhibit 23 was offered and received in evidence.)

849 The Witness: The total for erecting the machinery, for the whole machinery, including transport, fuel and erection costs, all inclusive is 3,879 pounds. The sinking of the shafts, drifting, would cost you 1450 pounds. That leaves a reserve of 1671 pounds—a total expenditure of 7000 pounds Sterling. With the expenditure of that sum of money and the erection and accomplishment of the work I have described, the estimate in Respondent's Exhibit 23, the production of ore that I could expect from the Spitskopie
850 within one year would be 9000 ton. Under present prices of copper and gold a profit that could reasonably be expected upon 9000 tons of Spitzkopie ore would be between 7000 and 9000 pounds. That is net profit. The high grade

ore in that country at present would be shipped. The low grade would be reserved until such time as you decide on treatment. I made a similar estimate of the expenditure of capital upon the Ubid property. The document you hand me marked Respondent's Exhibit 24 is my estimate of what in my opinion should be expended upon the Ubid and it shows what it should be expended for. The capital necessary for development, which is purely a prospective equipment,
851 amounts to 677 pounds; the money allocated for prospecting amounts to 400, and 1250 pounds for sinking and drifting. That would sink the prospecting shafts 100 feet deep. It would drift on the lodes 500 feet. The drifts that I refer to would be lateral, purely prospecting drifts. I made no estimates of any ore from the Ubid property. I did
852 not give that any consideration at all in arriving at value. Under existing adverse conditions assuming as the record of the demanding government shows here the capitalization of the Vulcan Company to be 600,000 pounds, the Vulcan Company with the expenditures of the sums of money to which I have testified, I believe could pay a return upon that capitalization within one year from the completion of the work.

Q. Did you figure out what return that would approximate?

Mr. Petit: Objection is made.

Mr. Gilbert: It is just a matter of computation.

The Commissioner: All right, let him give his com-
853 putation.

The Witness: My computation under the present condition is that after the whole of this development work is done, and everything is outlayed upon the property and it is in condition, I estimate there should be no difficulty under present conditions of the market, considering the gold values essentially of these properties, in paying a dividend of from 5 to 6 per cent after the completion of the work, the first year after the completion of the work, on a capitalization of 600,000 pounds.

854 Whereupon the further hearing of the cause was continued to Monday, October 5, 1931, at 2:00 oclock P. M.

858 At which time the parties met pursuant to adjournment.

HARRY BRYAN PEARSON, witness on behalf of respondent, having been theretofore duly sworn, resumed the stand and testified as follows:

Direct Examination (Continued) by Mr. Gilbert.

The Witness: I had gotten to a point in my testimony where we had finished the discussion of the three properties which constituted what I shall call the Vulcan Group. Now, let us turn our attention to the three properties, which for convenience I will designate the Rhodesian Border Group. Those three properties are the Gael, Neardy and Otjsongati Extension. I previously testified that I went to southwest Africa on February 9th and returned to England, and remained in Southwest Africa until February, 1930. During this trip in 1929 to southwest Africa I prospected a property known as the Otjsongati Extension in 1929. The Otjsongati Extension is situated about 67 or 68 miles northeast of Windhoeck, South West Africa. It is shown in Respondent's Exhibit 1. I indicated the location on there by a square
860 in red pencil with blue in the center. That map shows a symbol indicating that Otjsongati is a mining property. The symbol is crossed hammers. I obtained a license to prospect the claim Otjsongati Extension, after that I registered the property. I registered it in the way that I registered the other one. I registered it in my own name and transferred it to the Roodeclip Goldmining Company Limited. The Roodeclip transferred it to a company in Guernsey, the Pretoria Goldmining Estates. I have seen those title
862 papers and transfer papers. There are four claims in the Otjsongati Extension. In the case of the Otjsongati Extension I observed the conditions which I spoke of in relation to the Spitzkopie and Ubib. I investigated that property. I was at that investigation between five and six
863 months. I had assistants. I had a white man who had previously been employed on the adjoining property and a number of kafirs, ranging from fifteen to twenty at different times. I obtained a government mining certificate on the Otjsongati Extension. I formed an opinion from my in-
865 vestigation. As to the work I did there and the procedure to that which I described at the Spitzkopie and Ubib, gati property I followed comparatively the same procedure to that which I described at the Spitzkopie and Ubib,

sinking dozens of shallow pits. Couldn't count them, and cross cuts where the veins appear on the surface. The extent of the cross cutting that I did was, I should say, a thousand feet easily, possibly more; much more. The cuts varied from 3 feet to six and eight, depending on the depth of the overburden. With that kind of an examination an engineer of long years of experience could not form a definite opinion as to the immediate value of the ore bodies but as to the possibilities of ore bodies in a very great measure.

Q. Could he determine from such an investigation
866 whether or not the ore bodies were valuable or of no value whatever?

A. Valuable definitely.

Mr. Overmyer. I object.

The Commissioner: I think he may answer the present question. If you get to it I will permit cross-examination or a further examination by counsel for the demanding government, but I will let him answer and give the results of his opinion, to give his opinion.

The Witness: He could determine definitely from an investigation whether or not the ore bodies were valuable.
869 He would not be an engineer unless he could. From my examination I formed an opinion as to the commercial value of Otjsongati Extension ore. My opinion was that with proper development it would prove a very valuable property and that opinion was based primarily on this property and also its association with the adjoining property which has produced an enormous amount of ore. The names of the adjoining properties of the Otjsongati are: Otjsongati, Stanley, and Maygift, three very old and valuable
870 properties. The Otjsongati adjoins the Otjsongati Extension. I mean by that that the ore bodies extend from one property through the other; I know of my own knowledge the history of the Otjsongati mines. It is a very old and long story if you want to hear it. Years before the war an old Scotchman named Stanley got in touch with the natives in that country and by a native woman was shown some very valuable copper property. The property was located by him and for years it was worked. That was in the early German regime. As they developed the Germans saw that the property was a very valuable one and he was not paying enough dues on this property, so they sent to Germany and got a specialist, an engineer, to come to that country and report

on that property for the government, and they did so; then they commenced tangling him up in lawsuits, and ultimately he had to sell the property. The property was then again worked by whoever bought it and it was worked until the war, when it was shut down. I made a detailed report in connection with the Otjsongati Extension to Newberry, or by his instructions I made it to the Pretoria Mines Estates on his order. The document you hand me marked Exhibit 25 is the written report which I have referred to as having
872 been made to the Pretoria Mines Estates Limited on order of Newberry. That is my report. It actually does state the results of my investigation. It truthfully states my opinion. This was made when I came back on March 2, 1930.

Mr. Gilbert: I would like to offer the report of Major Pearson in evidence.

Mr. Overmyer: I object. Under that stipulation I may later make specific objections.

The Commissioner: Yes, I will take it subject to the objection.

(Thereupon Respondent's Exhibit 25 was received in
876 evidence and read by Mr. Gilbert.)

There is a plan there showing the property on the Otjsongati Extension. The document you hand me, Respondent's Exhibits 26 is a plan of the Otjsongati Extension.

Mr. Gilbert: I would like to offer that in evidence first.

(The map so offered and received in evidence was thereupon marked Respondent's Exhibit 26.)

877 The Witness: This is the Otjsongati Extension. That is the Otjsongati. That is the Stanley, and that is the Maygift. Respondent's Exhibit 26 discloses the fact that the ore bodies which exist on the old Otjsongati, the original property, extend over the extension and that the general strike of all those ore bodies would carry them, if they did exist over into the extension. This map I might tell you was originally made by the German owners of it. This is a reprint of it. This is originally written in German, the whole of this, with the exception of that. The map indicates the things I have spoken of by the fact that the lines of these strikes run across the property which we own. You will notice that these ore bodies for example of the Otjsongati run in the direction of this ore body, runs in that direction (indicating); this ore body runs across here and in this
878 direction and so on. This map was made by the Germans,

who previously owned the property. This Company that I have been speaking about—I couldn't tell you the name of it, but it is called the Otjsonagti. I forget the German. I secured this map in Windhoek from a Dr. Lorentz, who was a member of the old Company, the German Company and who afterwards took over the management of the prop-
879 erty. I know the purpose for which that plat was originally made. The plat was originally made for the German government when they had trouble with Stanley and his people over the property. It was made before the War, that is obvious. My investigation discloses that the matters of which I have spoken that were indicated on that map as to those properties are true. I have been over the whole of this ground myself and I know this just as the map shows. A part of the original map covered that property which is now designated as the Otjsongati Extension. I mean as a matter of fact all of these were lined in by the old German people in picking up their veins. This was originally cross-
880 cuts and the work and everything is similar to this. The part that was not on there while the property was probably a hundred thousand chip in there—I couldn't tell you what lines are on that now which were not on it when I got it. As a matter of fact all of my work was done from the old lines in joining the old lines and I simply took the line on this claim, that claim and that claim (indicating). The reason the Germans made a map covering the Extension was undoubtedly the Germans have taken up an enormous amount of territory here, more than they could carry and all of these means that there have been locations there before—that locates eight or ten claims more than were recorded, in which one gets a line beyond the requirements in order to protect themselves or the interests of your people and people even locate claims that they throw back. The Germans did that practically on this side. I have been over these claims by the way, and where they locate a block out all the way down there. Now the only two that are left of those are this one, the Werkevoigts and the Hassenschachl. I might say that the
882 Germans also have gone to work and located over here (indicating). This was all located at one time, that is, that didn't concern me. There were three big mines on the property. One was there on that bench (indicating). This one here and that one here. I have seen before Respondent's Exhibits 20, 20-a and 20-b, labeled Otjsongati 1, 2 and

3, specimens of ore, which you hand me. As to when I first saw them, well they were a portion of the amount of ore that I brought from Otjsongati to England. In other words, I got those specimens from the Otjsongati property. I
883 got them in the ordinary work of cross-cutting, picking the veins up, selecting at random. There was plenty of it there, plenty of this stuff appeared every time they would open up and we would find more or less and I took those specimens with me to England. I have never parted with the possession of those. On the 19th of this month I turned them over to some one to make an analysis or estimate. I turned them over to Plummer; those are the same specimens Plummer has testified about and are the same specimens I took originally from the Otjsongati property. I am sure
884 and have no doubt in my mind about that. When Newberry asked me to go to South Rhodesia in June, 1930, and report upon the Crescent mine to which I have previously testified, he requested me to investigate other property. Those other properties were the Gael and the Neardy. The Gael property was a property similar to the Crescent and in all probability an extension of the Crescent vein. That was a copper and gold proposition. The Neardy was a lead, copper and gold. I was shown a report on the Gael and the Neardy before I went to southern Rhodesia. I was shown a report of the Gael by Morris and of the Neardy by Stenhouse. Stenhouse is quite a well known mining consultant with
886 headquarters in Salisbury Rhodesia. I got that report from Stenhouse in London months before. I met Stenhouse in London I met him quite often, and we thoroughly discussed the property before I left. Stenhouse, as I believe, was a former owner. I secured one of the Morris reports on the Neardy in London and another one in Salisbury. This is the same Morris that I testified in regard to previously in this case, and whose report on one of the other prop-
887 erties was offered. The document you hand me marked Respondent's Exhibit 27 is the Stenhouse report to which I have testified. It is not the original, but it is the one that he handed me himself. It is not the original, but he handed me this himself (indicating). That is his report upon that property. In London in May or June, 1930—I couldn't say exactly—that is attached to that report—I couldn't say what is attached to that report other than the typewritten sheets; then there is a map that is evidently worn out of the geo-

logical survey that was attached to the report when he handed it to me. It was a part of the report. Then, as I understood it, it was to show the location of the property.

Mr. Gilbert: I would like to offer Respondent's Exhibit No. 27, Mr. Stenhouse's report of the property.

Mr. Overmyer: I object under the stipulation.

The Commissioner: It may be received subject to the objection, ruling reserved in the same way.

(Whereupon said document so marked Respondent's Exhibit 27 was offered and received in evidence.)

889 The Witness: Attached to it is the geological survey of southern Rhodesia, which is inclusive of the Neardy mines location on that map. That was put on there by Stenhouse. In addition to the reports which I had from Stenhouse I had a number of conversations with him about this property. He was very familiar with it, and put in most of the work. Upon my arrival in Rhodesia I inspected the Neardy property. The Neardy property consisted of a series of adits, shafts, practically on the top of the hole. Further down the hole a number of other adits and at the base of the hole a very long adit, which is spoken of in that report. I inspected the property as far as possible, going through the whole of this work which had been done, going into the lower adit, and going into the face of the adit. It was a property upon which I could do no definite work at the time outside of a little—normally I had a few boys to open up places in the adits. The work was purely one might say examination work. From the condition of the property I could do no development with this inadequate machinery. I had to confine myself solely to examination. The Neardy property is in the Umtali District, commonly called. The map of the South African Company, which was the old Rhodesian concession will show approximately the location of the Neardy. That is not Exhibit 8. That is up the other way; that is what I am talking about (indicated). As a matter of fact they were not a South African Company; that was the trouble. A British Company, Cecil Rhodes. The name of that Company first was Rhodesia; this property was never operated by a company in which Cecil Rhodes was interested. It is a new company. My remark about Cecil Rhodes was merely in reply to what your friends there asked me about the Company.

892 The country was originally developed by Cecil Rhodes. The map you hand me marked Respondent's Exhibit 28

is a map of the chartered Company of Rhodesia, which now has been more or less absorbed into the British Government. Both southern and northern Rhodesia were first a grant by the British government to what I refer to as the chartered company. That map was at the time of its publication published by the government authorities; they had in the country at that time one published every year, a reprint by the
893 Company to which had been ceded all the land in that part of Africa.

Mr. Gilbert: I would like to offer the map as Respondent's Exhibit 28.

The Commissioner: It may be received subject to objection.

(Whereupon the said document so marked Respondent's Exhibit 28 was offered and received in evidence.)

894 It shows the location of the Neardy property. Here is Salisbury (indicating) and here is Odzi (indicating) and this is the Neardy property (indicating). This is Sinoai here (indicating) and this is the next property we are going to talk about, I take it. I do not know how far approximately this property is from Beira, the seaport, about 150 miles, I think. I have not been any further than Umptali. There is Odzi, which is the railroad station (indicating on map). The Neardy property is there and the Tsungwesi River is here (indicating). That is the statement I made to the Com-
895 missioner. That property is very accessible to the railroad. It is about eleven miles from the station at Odzi in the valley. This road is in the valley, the property is on the hillside, and there is a good road right to the end of this adit. The roads are government maintained. That is one of the roads. There was a three-ton lorry there when I was there. There was no trouble at all in getting over the road. I told you of my inspection work of the Neardy. I made the report to Newbery, on Newbery's order, to the Pretoria Estates on the Neardy property.

898 The document you hand me, marked Respondent's Exhibit 29, is the report I made to the Pretoria Company upon the order of Newbery, which correctly states the result of my investigation of the Neardy property, and honestly expresses my views and opinions with regard thereto.

Mr. Gilbert: We would like to offer Respondent's Exhibit 29 in evidence, your Honor.

Mr. Overmyer Objected to under the stipulation.

The Commissioner: The objection may be noted. The ruling may be reserved.

(Whereupon the said document marked as Respondent's Exhibit 29 was offered and received in evidence.)

897 Witness: Neardy 1 and 2 are known as Respondent's Exhibits 19 and 19-A. I have seen those two specimens of ore before. I first saw them when I obtained them at the mine. I selected them in looking over the dump. I picked them up on the dump. They were picked out, I will frankly say, from about the richest ore I saw around there. After I picked it off the dump I took the ore home to England with me. I brounght it to the United States. It is a portion of the ore I took to England (indicating). I brought that ore

898 to the United States. I had that ore constantly in my possession since the time I picked it from the dump of the Neardy property until a recent date, until the 19th of this month, and then I turned it over to Plummer who took the remainder of the ore. That is the witness Clayton E. Plummer who testified in this case previously. The Neardy had produced small quantities of extremely high grade lead ore, but that had not gotten down deep enough to the place where normally the copper zone was productive and only indicates where they had small portions of ore like that (indicating). They

899 had stopped the work upon that property purely due to lack of capital. The owners had no more money. The Neardy was one of the properties that I understand was owned by the Pretoria Mining Estates. That is also true of the Gael. The Gael property had been opened up some time prior to my inspection. I went on the Gael property the same day I went on the Crescent, first. That was the 25th of July. When I cabled in regard to the Crescent property I did say something about the Gael property. I first went on the Neardy prop-

900 erty about the first of August, approximately. The first report I made on the Neardy property was when I cabled home on my return to the Neardy on the 4th of August, from Salisbury to Newbery. I informed Newbery in connection with the Neardy that it was my opinion the reports of both the engineer and the geologist were endorsed by me. That they were undoubtedly true in fact, and that putting in of this long lower adit and carrying the thing through to the ore bodies at that depth would result in a very large, well, amount of ore, so it would be among the big producers. I was of the opinion that the Gael was then or would again be a producer

with a little work. I said something in regard to the option in my cable. I recommended to take the options out at
901 once. I went on the Gael property the first day that I went upon the Crescent, which was the 20th of July, 1930. When I went upon it the property had seven shafts on it, and I found a large number of dumps. The shafts and dumps disclosed a large amount, comparatively large amount of ore had been taken away, copper and gold ore. There are at least three or four that have been developed by these shafts. There are two very prominent lodes which are presumably
902 extensions of the Crescent. The lodes I spoke of are continuous for over two miles over the property, the lodes themselves. The ore chutes occur, as all chutes do, a chute here and a chute there, and every shaft that was put down on this property, and there were seven, the deepest one of which was 75 feet—all those shafts had been in ore. Before going upon that property I spoke of securing a report from Morris. The document you hand me marked Respondent's Exhibit 30, is the report I refer to. It is the report which was handed to me in Salisbury by Morris on the morning bebefore I left Salisbury, to examine the property. He handed that to me as a true statement of his views, based upon an investigation. I know that he was familiar with the property. He worked it for years. Put a smelter on it.

903 Mr. Gilbert: I would like to offer that in evidence, your Honor, as Respondent's Exhibit 30.

The Commissioner: It may be received subject to the objection. Ruling reserved.

(Whereupon said document was marked Respondent's Exhibit 32, was offered and received in evidence.)

904 Witness: With the exception of shaft sinking, comparatively little underground work had been accomplished on the Gael property. The reason that very little underground work had been accomplished was due to water. They happened to strike water, a water zone, or the water table, as it is commonly called, and it was at the time when they had very litle capital themselves. All their money they had been spending as they obtained it. That is the then owners of the property. I refer to some one whom I knew had previously owned the property. This water began, anyhow, at the time it was during the war when it was impossible to get any machinery, and they had to shut down. You see, there was an embargo at that time on all machinery, pumps and every-

thing. The owners had kept their rights in the mine, and
905 the same is true today. The water situation as I found there was a very decided advantage to this property, because it gives you all the water you want for reduction, assuming you reduce your ore by concentration, you must have water. That water is made available by pumping and conservation, pumping and conservation. A comparatively reasonable sum would be required as an outlay for pumping facilities to adequately take care of that water situation, depending on the type of pump used. I recommended the use of pumps that are used in that country, which is known as the Tangeye. It is not a very expensive pump, a mechanical pump. I have an estimate here for such a pump, which I referred to. I could not give it to you offhand. It is
906 included in my estimate. I cannot give it to you without looking at my estimate. The prices that I procured from manufacturers are definitely accurate. They can be compared in Chicago, if necessary, with the Ingersoll-Rand people here. The shafts had been sunk in the lenses. That is where the ore was rich. The ore had been hoisted and a portion of it smelted in a small smelter they had on the property. The ore was then handpicked out, the remains of the rich portion, and that was shipped to another smelter called the Falcon smelter, which was also in Southern Rhodesia. That was the method by which they obtained their values. I do not know how much ore had been shipped to the smelter. The small smelter to which I refer is not still on the property. It had been dismantled about two years ago, I believe. That sort of
907 smelter was not suitable to the development work had in mind here. The property has been more or less developed for the last fifteen years in a desultory kind of way. They have taken the ore out and shipped it or used the smelter until the smelter burned out, I think, and then they shut down. I know very definitely why they shut down. No money. I will say that most of the people in these countries, certainly the smaller people, were perhaps living from hand to mouth, and instead of putting a certain proportion of the profits back into the property, they used up the whole lot, so that when their machinery runs out, they are done. They have spent all their money and they have nothing to re-
908 place it with. Which is typical of lots of miners in the States, I would suggest. It is typical of most districts. I secured the information that the mines were closed down

for lack of working capital and other things in connection therewith from the Commissioner of Mines, from the Inspector of Mines, and the government departments that are more or less interested. I discussed this particular property, the Gael, many times. There are quite a number of copper-bearing properties located in the near vicinity of the Gael, the
909 only one of which is working now is the Alaska. That is owned by the Southern Rhodesia Base Metals Company, which is a portion, I believe, of the Angle-American, a very large company. That is the only one that I know of that is worked today. The Gael and the Crescent join one another. We have a map here, I believe, which you were going to put in evidence. Respondent's Exhibit 8, a large map, shows the location of the Gael. I scratched it on there, that smaller ring on there. There is the Gael and there is the Crescent (indicating on Exhibit 8). After my visit to the Gael on June 22, 1930, I was over the property, well, twice or three time a week, or I slept on it, more or less, on the Gael and the Crescent, for about five months. Nearly every day that
910 I was on the Crescent I was on the Gael also. I could not go on one without going on the other because the road passes over both. At a later date, after the cablegram that I have spoken of, I made further report to Newbery, both by further cables and by letter. I later made a detailed report to the same company as the Neardy, the Pretoria. You show me a copy of my original report made to the Pretoria Mining Estates. I made that report to the Pretoria on the
911 order of Newbery. You hand me Respondent's Exhibit 31, a copy of the original report made to the Pretoria Mining Estates, Ltd., on the order of Newbery, in relation to the Gael property. It correctly states the results of my investigation and honestly and truthfully states my opinion and views in regard to that property. In putting in my reports on the Otjsongati Extension and the Neardy properties this afternoon, I believe I did not identify them as being copies of my original reports. They were both copies of my original report. The original of my report went into the government files, or court files, in England, and are not available to me, as in the case of the other properties I testified about.
912 The original or Respondent's Exhibit 31 is in London under the same conditions, part of the court files, so far as I know, and not available to me. That is an absolutely true and correct copy of the original. Attached to that is a

rough drawing which was made during my inspection of the Gael by my man, Malcolm Condie. It was taken to the Mines Office at Salisbury and the Commissioner of Mines authenticated it by stamping it. If I may turn back a moment to the report on the Crescent, you will see a map similar to this. That was also stamped. The record shows that.

Mr. Gilbert: I would like to offer that as Respondent's Exhibit 31.

The Commissioner: It may be received in evidence subject to the objection and subject to the stipulation.

913 (Whereupon said document marked Respondent's Exhibit 31 was offered and received in evidence.)

914 Witness: This report was sent by me from Salisbury. The Neardy report was sent from Salisbury. The Otjsongati Extension report was not sent from Salisbury. It was made in England in the early part of 1930, in March, 1930.

I have seen Respondent's Exhibit 18 before. I took this
915 ore from the property, from the dump, from the Gael. As to how it was selected, well, the dump was scraped over by my men and about five hundredweight of this was found (indicating). I brought home a portion of it, home to England, in this case to London. I brought this specimen I hold in my hand, Respondent's Exhibit 18. I brought it from England to the United States. I have had that specimen constantly in my possession since I took it from the Gael property until the 19th, when I gave it to Plummer for analysis or assay at the same time I gave him the other ones. That specimen I hold in my hand, Respondent's Exhibit 18, is
916 the same specimen I handed to Plummer marked "Gael."

I spent about five months all together, off and on, on the Gael property. In investigating this property with my two white men and a number of natives, over a period of five months, they prospected the land and the land strikes, veins, in order to find whether the veins were continuous on the surface. In other words, if they could be traced. When I say prospected the strikes, I mean surface work. The nature
917 of the prospecting was by digging trenches. The prospecting was in the form of cross-digging or trench veins in order to determine the veins. In some cases I might suggest that the ground level would be covered with debris to the extent of some feet, especially in the valleys. At that point they naturally could not pick up the veins within a reasonable depth or distance from that. They would trench until they

found which way the vein was striking, and it is essential in a property of this kind that you should be sure that your veins have at least some certain continuity. Continuity and
918 length indicates depth. The longer the vein is the more logical it is that it goes down. The shorter it is, the less probability it does. The geological character of the body or walls or formation on either side would have definite significance. A change of geological formation will very often upset the whole of the values in a vein. On the contrary, it will improve the values very much. I found that exactly the same situation, the same set of conditions, obtained on this property as on the Crescent. In relation to the side walls or tops and bottoms, the normal forms were exactly as my report states, the schists with the veins and ironstone tappings. In fact, what you call ironstone tappings, which have been mentioned many times previously, were larger than on
918 the Crescent, which indicates the presence of gold, because I have probably forty pounds of gold, that is, forty pounds of material I had crushed and panned myself for gold. I could not tell you its value. The documents you show me marked Respondent's Exhibit 32, is a rough plan—it can only be a rough plan because it adopts those surfaces both of the Crescent and the Gael. It was prepared partially by myself and partially by the mining authority at Salisbury. It states the situation and shows the location and size of the Gael property in its relation to the Crescent. It also shows the
920 property known as the North Star. I believe the North Star belongs to the Crescent, if they want it. I did not establish the North Star. I did not peg that out or have anything to do with it. It has been pegged out since. The Crescent veins runs through the North Star.

Mr. Gilbert: I wish to offer that as a plat showing the relation of the veins in relation to the Crescent.

(Whereupon the further hearing of this case was con-
921 tinued to October 6, 1931, at 2:00 P. M.; at this time the parties met pursuant to adjournment.)

HARRY BRYAN PEARSON resumed the stand and testified as follows:

Direct Examination Continued by Mr. Gilbert.

922 Witness: I testified yesterday in regard to going upon the Neardy property and making an investigation of it. Before going upon that property I heard somebody examining a report by the mining geologist in Southern Rhodesia. The document you hand me, marked Respondent's Exhibit 33, is the report of the mining geologist to which I refer. The mining geologist is F. E. Keep, Master of Science, Associate of the Institute of Mining & Metallurgy, Associate Member of the Institute of Petroleum Technology. He is one of the assistant mining geologists in Southern Rhodesia. I secured
923 the document, Respondent's Exhibit 33, from the Printing & Publishing Company at Salisbury, the government printers and publishers at Salisbury for the Geological Survey.

Mr. Gilbert I would like to introduce pages 66 to 76, both inclusive, of the printed report which has been marked as Respondent's Exhibit 33.

Mr. Overmyer: Objected to under the stipulation.

The Commissioner: It may be received, subject to the objection.

(Whereupon the said pages 66 to 76, both inclusive, of the printed report were marked Respondent's Exhibit 33, so offered and were received in evidence.)

924 Witness: I might say, gentlemen, that there are two figures here in this exhibit, both of the vertical sections of different angles to the geological section proper. That is from the Geological Survey at Salisbury dated on the 11th of May, 1928. I had an assay of the ore made such as was referred to in the report, and that has already been testified to
925 in this case on ore from this property. The Neardy exhibits are Exhibits 19-A and 19. On one of the properties I testified about on the Gael, I said I found some ancient workings. I think I explained previously what I meant by ancient workings. In certain portions of Southern Rhodesia which in bygone years, probably anywhere from 600 to 1000 years ago, or possibly earlier, the ancients worked for gold. And wherever these workings, called dikes or shelves, these dikes occur, which are more or less prolific in gold values, the ancients mined them, and the quartz adjoining them, the quartz veins:

The same sort of dikes that occur in the Crescent, extending along the same zonal length as the Gael and they represent
926 the same story of ancient workings. By ancient workings, I mean diggings, three times the width of this room, in many instances, and down as far as they could go without having underground mining. And the whole material was taken up on each side and spoiled and picked and the gold-bearing portions taken away, washed there or taken away somewhere else. That we don't know. There are many theories which have been put forward about the ancients being natives of that country. They were evidently natives of the country, but the probabilities are the Arabs were driving them as slaves when the work was done. That we don't know. So much of that work was there that I could not describe it in those properties. On the Neardy mine the work extends sometimes 30 feet in width, 150 feet in width to a problematical depth of probably 20 feet and for a surface length of about 700
927 feet. That is on the Crescent. On the Gael, the distance is considerably greater, of this surface work, but not so wide, and it was done in patches, where, as I explained yesterday, the ore chutes evidently had occurred, and this scattered over the whole of that country for miles. Those ancient workings are not confined to these properties. Those ancient cuts I have spoken of as being performed by the ancients are covered over with debris and solidly packed with washes of ages. I dug into those and exposed the ore at the bottom or sides and found ore there. I have no specimens of the ore I found there. The specimens of ore I found there, the whole of them, if I may explain in detail, were panned on the spot for the extraction of the gold values in order to estimate the contents of those lodes or dikes. Those workings by natives or others occurring a long time ago are not spoken of in this report. The whole of the work in this report
928 comparatively is modern.

The Commissioner: Perhaps it was one of those ancient workings or that type that suggested to Rider Haggard the story of King Solomon's Mines.

The Witness: It was in this very country, which is presumed to be the country of Lomogundi, the Two Mountains, and here is where it was Haggard got the story from. I have seen the remains of an ancient worker found in a little round shaft about 40 feet below ground. He dug a shaft about three feet wide and he worked himself down with a stone bowl which

he had filled with gravel, and he was unable to turn himself around to get out of the shaft, and he starved to death there and was found as a mummy. That is not on this property but on a property of the same strike, about, oh, thirty miles, it may be a little more, probably thirty-five. That was
929 uncovered by the man who afterwards worked the property.

Mr. Gilbert: If your Honor please I wish to offer in evidence a document which I have had marked as Respondent's Exhibit 34, which is a true copy of a certain contract entered into by and between the Pretoria Mining Estate, Ltd., and the Rhodesia Border Mining Corporation, Ltd., on the 6th day of August, 1930, together with a schedule attached thereto and made a part thereof by reference. As I understand, counsel has no objection.

Mr. Overmyer: That is Exhibit 132? No objection.

The Commissioner: Very well. It may be admitted, then.

(Whereupon the document marked Respondent's Exhibit 34 so offered was received in evidence.)

930 Witness: I testified previously that I staked out the Otjsongati Extension and transferred the claim in my name to the Roodiklip Gold Mining Company, which in turn transferred the same claim to the Otjsongati and the Pretoria Mining Estates, Ltd. I believe I testified later seeing that assignment. I transferred the staked claim, that is, I located the claim in my own name and transferred it. That is
932 correct. The Otjsongati Extension is the name of the claim I staked out. It is not one of the claims that goes to make up part of the property referred to in this contract, Respondent's Exhibit 34 and known in the record as Exhibit 132. The other two properties are described in the schedule attached to that contract and covered by it, in the Neardy and Gael properties, of which I have testified.

Q. And from that schedule you, as an engineer, being familiar and having inspected these properties, can you can you not say whether or not the schedule described the property known as the Neardy and Gael and Otjsongati Extension?

Mr. Overmyer: I have not made an objection because I assumed I have the right, under the stipulation, to object to all those questions.

The Witness: The only property in the schedule that there is any question about is the Otjsongati Extension. I

have the original transfers to the Otjsongati Extension and the Pretoria Mining Estates. I can produce them, I believe. They did get it. I have the originals. I did not see the necessity of having a copy of that transfer here. I believe I
934 have the original or a copy with the number of the claims on it so you can go on that map and find the numbers, if it will help the court at all to clean up the position. I have it here, I think; if not, I have it at home in my file. You can take my word for it, gentlemen, I have copies of it, and I will produce them tomorrow morning. I am not sure but what I have the originals stamped. I have not got them now. I did not carry all my papers with me but I will go over them to-night and get them for you. As a mining engineer of
936 thiry-eight years' experience, I formed an opinion as to whether or not the Gael and Neardy and the Otjsongati Extension properties were commercially valuable mining properties.

Mr. Overmyer: I object to that.

Mr. Stansbury: He can answer this yes or no.

Mr. Gilbert: Yes. Answer yes or no. Did you form an opinion?

The Witness: I did.

937 Mr. Gilbert: Will you now give us your opinion.

Mr. Overmyer: I object to it, your Honor. Merely that the question is so absolutely indefinite. What does "commercially valuable" mean? How far does it go?

The Commissioner: Let it go in subject to the objection. I have grave doubts about it.

The Witness: My opinion is as exemplified in my re-
938 ports. The opinion is, and my opinion is personal, those three properties should produce after the finishing of the development as suggested, a very lucrative proposition for the companies they belong to. I can elaborate it if necessary. I made an estimate of the present worth or value of the work which had been carried out by previous owners of the Gael property. I consider that the work that was carried out
939 on the Gael property is worth to the people who go to develop the property in the future, from seven to ten thousand pounds. I made a similar estimate of the work carried out by the previous owners of the Neardy property. I estimated the present value of that work to anyone who might develop the mine and place it back in operation, well that work was such that it would save a preliminary expenditure

of from ten to fifteen thousand pounds. In other words,
940 if that work was not done, to place the man in the condition it is in would cost ten to fifteen thousand pounds to discover what we have discovered by that work. I did not testify that some of the shafts or development work of the Neardy mine had been filled with water. It was on the Gael.
941 The conditions of the Gael are relatively diametrically opposite those on the Neardy. Oone is on the hill and the whole of the work is practically by adits driven into the hill and the shaft from above sunk into those adits so
942 that the property drains itself. Now, then the Gael, on the other hand, is a series of shafts along the strike of the lode and the ground is comparatively undulating, ground without depth, nothing on either side to drive the shaft below the water table, that is about 75 feet. That explains them both. I made an estimate for the Pretoria Mining Estates Company while I was in Southwest Africa, after my return to England, of the amount of working capital it would be necessary to put the properties of the Rhodesia Border Mining Corporation, Ltd., group back into operation. The total of my estimate was in the neighborhood of £30,000, which I
943 may refer back here, if you give me permission. I estimated that the Rhodesia Border Mining Corporation required a total expenditure of approximately £30,000, divided into an expenditure on the Gael of £10,000. That is what the reserve is on the Gael. On the Neardy, £10,000. That will leave a reserve on the Neardy of £5,000 and a reserve on the Otjsongati Extension of £8,000. The Otjsongati Extension is not a mine but a right taken out, a registered claim, not undeveloped except for prospecting work on the discovery
944 of ore bodies. The document you hand me marked Respondent's Exhibit 35 is my estimate of the amount of capital required to be expended on the Gael property and to recondition and dewater it and place it in operation. That is my detailed estimate. In my opinion it correctly states the cost of reconditioning and dewatering and placing in operation the Gael mine.

Mr. Gilbert: I would like to offer Respondent's Exhibit 35 in evidence.

(Whereupon Respondent's Exhibit 35 was offered and was received in evidence.)

945 Witness: The greater items that go to make up the sum of £10,000 Sterling, the total of my estimate, the

greater items are items of £50 or upwards, would be a power-house, cages, pumping machinery, both engines and pumps, compressor, electrical power, underground material, blacksmith shop material, mining tools, construction work, transport material, fuel,—and that means crude oil, paraffin and petrol; erection costs and railway charges, That includes labor costs only for erection, and that brings that to a total of £4,030. The developing cost underground: Sinking the shaft from 60 feet to 160, not to 100 as suggested, but 160. I am going to do 500 feet of drifting; the cost of sinking the shaft will be £460. The drifting will cost £1,250 and then the up-

946 risers, that means from the shaft underground going back into the lode, over the lodes, £300. That includes allabor and material charges, overhead and charges of all kinds. The total expenditure is about £6,000, approximately. I estimate something to be kept in reserve out of the £10,000 for further development, £3970 on the estimate of £10,000. Assuming the work I have just described having been accomplished, I estimate the ore could be raised from the Gael property today, well, I have gone over the figures very carefully and gone into that estimate of ore on the Gael property and I do not think there would be any difficulty after this development has been carried out to raise 50 tons a day. There

947 are 300 working days in that climate. That would be 15,000 tons a year. Taking into consideration the world-wide depression, 15,000 tons of Gael ore could be reasonably expected in a year. My answer is that under normal conditions the profit will amount to £30,000 per annum. Under

948 present conditions I call it 15,000. As a matter of fact, it works out very much more than that. I made a similar estimate of the cost of reconditioning and placing back in operation the Neardy mine. The document you hand me marked Respondent's Exhibit 36 is my estimate to which I just referred. That is the Neardy. The total estimate, including the reserve, runs to £10,000. That actually states my views as to what should be accomplished in the way of reconditioning that Neardy mine. That is an honest statement of my best estimate of the cost thereof.

Mr. Gilbert: I would like to offer in evidence Respondent's Exhibit 36.

The Commissioner: It will be received, subject to the objection.

949 (Whereupon the document was so offered as Respondent's Exhibit 36 and received in evidence.)

950 Witness: In the first place, the exhibit includes one very expensive piece of machinery. That is a compressor. That costs £1,000. And then there is a number of other pieces of machinery. I can read them over, if you like. Well, as to the major items, what I call a blacksmith shop; that amounts to £70. Ventilation, £100. Your supplies are going to cost you another 300 or so. Your construction is going to cost you 100. Your air line is going to cost you 80; your sleepers, rails, fish-plates, bolts, turn-outs and trucks are going to cost you 180. In this particular case that would include labor costs and general supplies for the Kaffirs. Your transportation would be the cost of a lorry. You have a general reserve for mining timbers and certain incidentals. The total cost

951 is £2,229. I must come to the reserve I left there in a minute. The expenditure for three months on the suggested work, which is the drifting and that deep adit—I am going to drift on that 700 feet; and remember it is nearly 700 feet now. That is, when we come to start that 700 feet in the mountain, the cost of that for the total of three months would be £960; the balance of the development, I have, opening up shafts on the property to ventilate the lower adits and workings, would amount to £1,700, leaving a reserve of £5,111 out of a total allocated to the property of £10,000. Summing up the workings and the shafts extended in place, I can make an estimate of the amount that could be extracted from the Neardy mine per day. I estimate that from that adit crosscutting to the two large lodes mentioned, also from the making of the other report by Steinhause and by Keep, the geologists, that 100 tons of ore a day would be available. I think at this point I might go a little further. The 100 tons of ore is simply infinitesimal in proportion to the amount of ore that could be taken out of those enormous vein lodes. I have

952 not enough plant facilities in my estimate to extract and handle a larger quantity of ore than 100 tons a day, and did not intend to have. You can count on 300 working days in this part of Rhodesia where the Neardy is located. That will account for 30,000 tons of ore per annum. Under present conditions on 30,000 tons the Neardy ore will net anywhere from ten to fifteen thousand pounds. As to normal conditions, taking the price of copper at an average over the last twenty years, and you must relatively appreciate the fact

that Neardy is only partially a copper mine, it is a gold
953 mine as well. Considering the price of copper and gold, I should think that £30,000 per annum would be a reasonable sum to expect from that property when developed. That would be net. I made a similar estimate of what should be done with the Otjsongati Extension and the cost thereof. You hand me document marked Respondent's Exhibit 37, which is my estimate to which I just referred. It honestly states my views as to what should be done in the way of installation of a plant, sinking shafts and drifts on lodes and the cost thereof.

Mr. Gilbert: I wish to offer Respondent's Exhibit 37.

(Which said document, Respondent's Exhibit 37, was offered and received in evidence.)

955 Witness: For a resume of that estimate, well there is the usual housing plant, tramming, blacksmith shop, construction work and transport, £667. Prospecting, assuming the sinking of new prospective shafts to 100 foot level, inclusive, the drifting of 500 feet level on the nose; and this property has an expenditure reserve of £4,000 for an increase in machinery and other development work, when necessary.

Q. Does that account for 30,000, the Gael, Neardy and the Otjsongati Extension, or do you still have a reserve?

A. Well, there was a reserve together of about £3,673. That is a floating reserve.

Q. On the Otjsongati Extension?

A. On the whole. You reserve for expenditures, £4,000. There is a floating reserve. Then in addition to the reserve of £4,000 for Otjsongati Extension you still have over
956 £3,000 for development on the three properties belonging to the Rhodesia Border Mining Corporation, wherever it may be necessary. I made an estimate of the amount of ore that could be extracted from the Otjsongati Extension the first year. I have it here somewhere, in just a minute. I estimated that from Otjsongati, but only a prospect, that a reasonable amount would be per week 20 tons.

Q. That is ore that you would take out and put down your shaft?

957 A. Only development work. Putting down for shaft and drift. You can have at least fifty working weeks a year on that property. I estimate 1,000 tons per annum. Under present conditions you could reasonably expect as a net profit on 1,000 tons of Otjsongati Extension ore, £1,720.

That is only assuming 1 pound 7 shillings per ton. That is a very small net. Under normal conditions it would probably be at least six or seven times that much, or more, I should think, on account of the peculiar condition of the ore.

Q. You said then, Major, under normal conditions—I have added your three answers together— that makes a total of £63,400 a year as a net profit on the Neardy and the Gael and the Otjsongati Extension, and under the present adverse conditions I have added your three figures together and they amount to £31,700. Would you say, then, Major Pearson, that the Rhodesia Border Mining Corporation, Ltd., should be able—

Mr. Overmyer: I object to that.

Mr. Gilbert (continuing): —to earn a fair return upon
958 its capitalization within a year after development work to which you have just testified was completed.

Mr. Overmyer: I object to that.

The Commissoiner: Oh, I think, Mr. Gilbert—I do not see how that is involved in the question we have here, a question of defense.

Mr. Gilbert: If we do not have the question of whether or not these people got what they were buying, I don't know what we have in this case. If we do not have the right to show that the people, that whatever representations were made to them were true and correct, and they got what they paid for, and that without interference of the British authorities by the appointment of a receiver, these companies had enough money to put themselves in a position where they could make a fair return upon the investment, then I don't know how we can ever explain the proposition at all.

The Commissioner: Of course, I don't know about the appointment of the receiver except your statement.

Mr. Gilbert: Well, you have it in the record here. The receiver was appointed and he found approximately £33,000 sterling in the cash box of both of these companies, the Vulcan and the Rhodesia. Now, if we cannot show that, that that was enough and more than enough money to put these companies in a position to pay a fair return upon the investment to the stockholders, pay a fair return upon what the stockholders who claimed they were defrauded paid for their stock, then I don't know how anyone can ever explain a stock sale where they are accused of being fraudulent.

Mr. Stansbury: It was a very determinate probable cause.

The Commissioner: Yes, that is true.

Mr. Gilbert: Well, let the witness answer the question and take it as you have taken these other things, subject to the objection.

The Commissioner: Yes, I will take it subject to the
962 objection. (Question read, as follows:)

"You said then, Major, under normal conditions—I have added your three answers together—that makes a total of £63,400 per year as a net profit on the Neardy, the Gael and the Otjsongati Extension, and under the present adverse conditions, I have added your three figures together, and they amount to £31,700. Would you say, then, Major Pearson, that the Rhodesia Border Mining Corporation, Ltd., should be able to earn a fair return upon its capitalization within a year after the development work to which you have just testified was completed?"

A. It is my considered opinion that they would be able. I figured out an approximate percentage, approximately 5
963 per cent of the capital invested should be available to the shareholders within a year after the scheme of development is completed. That is the work I have outlined.
963½ the scheme of development. I want it clearly definite as I have tried to show during the whole time I have been here that I am here from a purely professional standpoint. I have been paid a fee, and that finishes me and my connection with the case, unless I am called in some other court and testify. I have no interest or ax to grind, one way or the other, only as a professional man. I have no pecuniary or other interest in the outcome of this case, and I have never had. The fact that I have been paid a retainer fee to testify as an expert does not influence my testimony in this case.
964 (Whereupon an adjournment was taken to October 7, 1931, at 2:30 P. M.; at which time the parties met pursuant to adjournment.)

Mr. Overmyer: There is one thing we have in mind before proceeding with the cross-examination. There has as yet been no evidence showing that these alleged properties, assuming they are the properties mentioned in the contract, have ever come into the Vulcan and Rhodesia companies respectively. I don't see how they are going to prove anything here, and it seems to me, in fairness to you and to us, they ought to declare how they are going to prove that fact, because if they do not, this is all quite needless, and there is no occasion to go into a cross-examination of Major Pearson.

Mr. Stansbury: Well, that is for you to determine, whether or not you want to cross-examine him.

The Commissioner: Well, I don't know, I don't suppose that I can control the order of their putting on their witnesses. Of course, it would be for you to determine whether you want to cross-examine or not, because I don't know what they are going to do. I don't know whether they are going to put on any other evidence on the vesting of these properties in one of these companies that are involved here or not. We are into this thing this far, and I suppose you may as well go ahead and complete the cross-examination. After it is all over I will consider how much of it is pertinent to the real issue here.

965 HARRY BRYAN PEARSON, a witness on behalf of the respondent, resumed the stand for further examination and testified as follows:

969 *Cross-Examination by Mr. Overmyer.*

970 Witness: In 1925 and '26 I went to Burma, Sumatra and the Straits Settlements. I examined gold properties for a Dutch company. I do not remember the name of that company. It had its head office at The Hague. Newbery was associated with the company, with the Dutch people. This Dutch company was not one of the list of twenty-three whose names were on the door of his office. I do not think so. I have never seen it there. Newbery and the Dutch people together sent me there on this trip. I spoke to Mr. Mann
971 from the Dutch company about that. I think his first name was Carl or Otto. He was of German extraction. I talked to him in Holland at The Hague itself. I believe the Roodiklip Gold Mining Company had something to do with that. I am not sure. I worked for somebody else from the time I went with Newbery in 1924 until I completed that work after my second trip to South Africa. I have worked for two clients of Fyson, who is at present Factor's lawyer. He was their solicitor at the time. I have done a lot of work besides that for Newbery. Really, I could not tell you—little jobs
972 more than anything else. My arrangements with Newbery were this. When I was in the field I was to receive a salary of £75 per month and the whole of my traveling expenses in addition. While I was in London my compensation from Newbery until a year ago was a retaining fee of £5 per week. For that £5 per week, I used to go to Newbery's office

and examine reports and the like. The first property that I examined for Newbery was a tin property in Cornwall. I have examined quite a number for him. At least I should say eight or ten. It might have been more than ten. I could
973 not tell you just now. I testified at Newbery's trial.

Q. At that time were not these questions asked you and did not you make these answers:

"Q. By Mr. Singleton: Have you worked for anybody else besides Mr. Newbery?

"A. Not while I have been with Mr. Newbery.

"Q. By Judge Holman Gregory: How long have you been with Mr. Newbery?

"A. Since 1924."

Were those questions asked you?

975 A. That is correct. I first met Factor there. I first heard of Factor when I returned from South Africa, or
975½ rather, from Rhodesia. That was about the 29th or 30th of December, last year, 1930. Until my return from my second trip I had never heard of Factor in connection with anything of Newbery. Before that I might have read about him in the paper. It is quite probable. I have no vivid recollection of that. I was out of England so much I have very little recollection of the last three years at all. Prior to my going to South Africa the second trip, which was June 28, 1930, I had never heard of Factor in connection with any
976 dealings with Newbery. I was never called in consultation. By that time I had examined two of the properties that it is contended were assigned to the Permanent Company in Southwest Africa. The Fyson that I mentioned, Factor's attorney is not connected with the Reed Charman & Company. He is not connected with Elmann, not that I am aware of. I do not know the whole of his address. It is in Portugal Street, just beyond Carey Street. It was with him that I made my arrangements for this trip. He advanced a
977 portion of the expenses. He advanced me £200 to apply on my expense account. My per diem while here in the first fourteen days came in my expense account. Since then my expense account is £2/10 per day in English money. I am paying the expenses at the hotel. That covers my entire cost. I have to pay my expenses on my return to England. That is my expense account of £200. I made that agreement with Fyson. I have not talked about that with Factor. I might suggest to you at this point I have never discussed anything with Factor, if that will save you any cross-examination. I have never dis-

cussed anything with Factor at any time. I will take my oath on that. I was first introduced to Craig in connection with the examination of some other Southwestern Arican prop-
979 erties. These were Otjsongati as distinct from the Matchless. The Matchless is due west of Wyndboek 36 miles. It is one of the copper mining claims in the country. There were two claims, by the way, so far as my recollection serves me. In this particular case they were copper; that made 3,000 by 1,000 meters. I believe that is correct. I can soon tell you if you will permit me. A tremendous amount of work had been done on that property. Copper was not being mined at that time. Craig was interested in the property. He
980 was not the owner. I do not know at present how much it was that he proposed to sell it to Newberry for. I have been told but forgotten. That is a property I passed up. The Otjsongati claim he recommended was also passed up. The Otjsongati Extension and the Otjsongati claim were contiguous. I knew how much Craig wanted for the Otjsongati. I have forgotten. I was told. I have no idea. It was a stock, I know it was a cash and share deal. That is all I know, in which Newbery was to get back a number of shares in the
981 company to be formed. As to how far the work had progressed, the whole of the block constituting most of the properties, to the best of my recollection, there is six immediately in the property, has been very extensively mined underground. There was nothing being done at the time I was there examining them. I took samples from the Matchless and the Otjsongati. I took samples from the Matchless and the Otjsongati after I rejected the order, I suppose, by cable, these Matchless and the Otjsongati. The Otjsongati Extension was a property that I examined on my first trip and which supposedly went into the second deal with the Pretoria and the other two properties I examined on my first trip and which supposedly went to the Permanent were the Ubid and the Spitzkopie. The third property was the Crescent. On my first trip I did not examine the Crescent. The Crescent, in fact, is a couple of thousand miles by rail from the Ubid and
982 Spitzkopie and in Southern Rhodesia, whereas the former was in Southwest Africa. The Kalahari Desert is between the two and the railroad has been built over it. At the time when the agreement was entered into on July 6th covering the Crescent property I had not examined it. I did not get to the Crescent property until around July 24th, to be precise. I first went to Bulawayo and remained there one day and from there I went on to Salisbury and I arrived there on the

night of the 24th and on the morning of the 25th I arrived at the Crescent. I pegged out and registered the Spitzkopie property which consisted of three blocks; originally in my evi-
983 dence at the Old Bailey I said six—I said six, and I took that evidence back because three blocks, although I pegged six, I did not register. I only registered three. As a matter of fact, I believe I could get that any time I wanted to. That is what I believe. They would have been useless at the time. I could not have gotten Spitzkopie at any time I wanted to, no.

At the time I left for South Africa I was not equipped with a description of this copper mining area as located in Hoboth district at a distance of some twenty miles at the town of
984 Windhoek, South West Africa and situated on the well known copper belt embracing some six copper lodes or veins having a run of some two miles outcrop through the property with a depth of probably two thousand feet. How could I be equipped with that description? As a matter of fact there is no Hoboth. There is a Rehoboth. I did not examine a property a distance of twenty miles from Windhoek, South West Africa. It would depend entirely on the context as to whether taking that description I could find any prop-
986 erty answering it. I could not find any property so described. The Spitzkopie property that I examined I
987 cross-sectioned. The veins were already opened up on the surface. On that property I believe there were three deep shafts and one shelf. When I say deep, I mean comparatively as deep a shaft—just about 100 feet. I did not descend to the bottom of each of those shafts. I did descend
988 into the one of the shafts in the Great Spitzkopie as far as the water level. There are a numer of small shafts on the drift of the vein or strike of the vein and there are a number of small shafts. I descended that one a distance of as far as I could go to the water. I could not go any deeper (indicating) that was I think thirty or forty feet down. I did not go into any drift at all because the drift had partly fallen because of the timber rotting. In some cases when these shafts were sunk and the various levels put in timbers
989 were used to support it, but not always. I went into some where I saw whether there was or was not timber. There was, in this particular property. The timber was practically the whole way down the shaft with the exception of the collar which you will read in my report, where it says the collar was broken. I did not examine any levels where there was no timber used. I could not get into the level; that

was above the water line. There is a level above the water mark, that is thirty meters (indicating) nine meters (indicating); that level is above the water mark there (indicating) I did not go into that. I believe I emphasized I could not go into any of those higher levels with the timber broken
990 and the lower levels were filled with water. From the mere descending into the shaft there was definitely a way of determining whether or not any copper vein had been cut or not. It showed in the shaft. You do not drive a level anywhere. You drive levels at certain depths. As to the mining of the surface vein, that is more or less impractical in that case, merely because the surface veins were normal, simply discolored quartz showing the copper underneath the quartz, in this particular property, remember. From my descent into the shaft I probably could have taken samples of the ore. I did not stay there any longer than I could help. I could have gotten samples. There were parts of the veins exposed
991 sufficient to have gotten samples. Instead of that I took samples from the dumps. Why wouldn't it be honest for you to ask why I took samples from the dumps, please?

Mr. Overmyer: Maybe you can argue the case.

Mr. Gilbert: That is, I think, a very pertinent question the witness asked.

The Commissioner: The Cross-Examiner is not bound to ask it.

Witness: The shafts on this property that I referred to were perpendicular in this particular instance. The work
992 on this property had been abandoned during the war, with the exception that the previous owners had done a little work on the surface in relation to what I afterwards did, cross-cutting. That was purely surface prospecting. They did not do anything more in the mines out of which they actually got the ore in 1918. The original of the agreement between the Permanent Company and the Vulcan was handed to me. If you will notice my evidence at the Old Bailey, the original agreement was handed to me on the witness
993 stand. I had never seen it prior to that time. I am not sure the day I gave my evidence. I think it was about the ninth of June. You can refer to it and find out, the ninth of June of this year. That was the hearing at the Old Bailey Court in London. So far as I knew Newberry had arranged for the incorporation of both the Vulcan, and he was sponsoring the Permanent Company. I had never seen the agree-

ment prior to that time until going on the witness stand.
994 There are districts in South West Africa. As to how large the district is is arbitrary. It has a definite boundary line. I think the Respondent's Exhibit 1 furnishes the boundary line of a district, incidentally right there (indicating on plat). There are no townships. These lines, these divisions with the numbers, in the center are farms. All
995 this land has been surveyed and everything that has got a line on there, everything that has got that line represents a farm. This is a farm, definitely a farm (indicating); that is the boundary of a farm (indicating on plat); Spitzkopie is in the territory that is not surveyed. For this reason, that this territory is the Bastard Gebeit, which by charter belongs to those people and no surveys can be made on the land of the Bastard Gebeit without their permission. Ubid is down here (indicating). Gebeit as a matter of fact means
996 a community. I do not want to go into the history of it. I do not want to go into the history of it, but there is a history to that, this Bastard Gebeit. I will show it to you printed on the map there. This is the farm Schettler (indicating) that is rather poor print (indicating). There you
997 are, there it is (indicating). That is in surveyed territory, definitely. I have not the original of the certificates that I received from the Inspector of Mines with regard to Spitzkopie. I have got copies of transfers, what I was looking for last night. I turned in the three certificates, the registration of the claim when I came home in 1930. I did not check copies of them. There was no necessity. I just did.
I have not got a copy of the certificate of the Ubid prop-
998 erty. My certificate was sent home. These certificates were sent to Newberry and the reports went to Guernsey. The certificates may have gone to Guernsey afterwards. I think the certificates were placed in evidence at Old Bailey. I cannot swear to that.

The Commissioner: What proceedings was that?

Mr. Gilbert: The trial of Fellin, Newberry and Ellman, my information is. Mr. Overmyer has a copy of the record there. He has it in his hand. It will show for itself. My understanding is that they were put in evidence.

Mr. Overmyer: They were, but for that matter most of
5 the other exhibits of yours were, too. But you have copies of them. That is the point.

Witness: Yes, I have copies of anything pertaining to anything I had anything to do with, except certificates that did

not concern me. I did my work and turned in my papers, and those did not concern me. There is Ubid (indicating)
999 and there is Schettler (indicating); that is in figures 69—. There is the number "69". Sometimes that is the way things are described in the certificate of registration, and sometimes not. The description you read to me
1000 before about the Hoboth District, I did not give that to Newberry.

Q. It was absolutely different from the one you did give to him, wasn't it?

A. If you will read my re-examination, sir, you will clear that question up. If you will take my examination at the Old Bailey, now and read my re-examination. I want to draw a distinction, rather a relation between Hoboth and Rehoboth. I want the sixty-two miles that I found to be sixty—two miles from Windhoek and twenty miles from the railroad. That is correct.

Q. Yes. On the other hand, Exhibit 104 of the Government—

A. Of the Government?

Q. Yes, of the Government shows that the copper mine is situated where it is situated. Now, they did not make a mistake in the Hoboth—are they in the Rehoboth District about twenty miles from Windhoek to the railroad?

A. The Rehoboth, thirty miles from Windhoek?

Q. I don't know.

A. That speaks for itself.

Q. That is what we had.

A. It could not be twenty from Windhoek. It is quite obvious.

Q. I won't argue with you.

A. It is obviously a typographical error. That is what it is.

Mr. Overmyer: I move to strike out the answer as argumentative.

The Witness: In my re-examination I straightened it out.

The Commissioner: Counsel and the witness both have been making some arguments.

Witness: Those little lines indicate the boundaries of farms. That means they are in private ownership. Here
1002 is the farm Otjsongati, and here is Ongande next to it. The farmer does not own the mineral rights. The farmer has definite rights. Every one of these divisions appear in this Windhoek and Ubid Districts (indicating) it is a farm.

There is a farm on every one of them, and usually a farm house on most of them, although the law does not compel them to have a farm house. But usually there is one. These areas are not divided up. Some run into twenty thousand acres. As to the name of the farmer in the Otjsongati Extension, it is leased by a man named Voght. The owner
1003 of the farm itself, I don't know. The only right we shared with the farmer were the rights of the upper area on which the location was made. One has the mineral rights and the other has the farming rights. The farmer claims the timber rights and the State claims them. As far as the Spitzkopie and Ubid, those two properties, the right to minerals, leaves it an open question as to whether it carries with it timber rights. There is a controversy now between the State and the farmer whether the State owns the timber rights or the farmer. We will pass that. In fact I believe it is in the Courts in South West Africa. I used 16 pegs to peg out the Spitzkopie property, 16 to each claim. There were three claims on the Spitzkopie; there were three blocks or claims or stakes. I probably used 3 x 16. The
1005 stakes were timber, what we call hewn kaffir, four inches square, to comply with the law. Each stake by law has to be four inches square; it has to be hewn and also has to have a metal plate fixed on the top of it and the name and the number of the property and the location and the time located stamped on it to make the location legal. When I took that on after I had staked it out I registered it at Windhoek. I asked to register it under the old description of the old Spitzkopie mine which had existed there which had been worked. I have forgotten now what that description was. I cannot tell you for the moment.

Q. It was not this copper mine located in the Rehoboth District?

A. Yes. It would be described as three copper mines, called the Greater and Lesser Spitzkopie, situated on such a farm, and this gives the farm. There was a farm in this case.

Q. That had not been surveyed.

A. It shows.

Q. That had not been surveyed. You just got through saying that.

A. Never mind. There was a farm there without the survey. I told you these surveys were made here. He gave me the report, that was in March, 1930. Obviously he had
1007 it in July when the contract was made. I gave Newberry

a definite description of the property that is Exhibit
1008 4. This says "This property is situated in the Rehoboth District, Bastard Gebeit, fifteen miles north of Rehoboth village, about twenty miles from the main line station of Rehoboth upon the Windhoek-Wallfish Bay section of the South West Africa Railway, distance from Windhoek sixty-three miles." The railway station is called the Windhoek-
Wallfish Bay—that is a port. Nothing is said there
1010 about the farm. There is no necessity for it. I also brought back a registry certificate. That had it by metes and bounds. The metes and bounds were on the plat. It was only surveyed with a normal tape, as a man in the field does survey in all cases, even in this country. The definite starting point would be your location stake, so many feet to one corner or one end, wherever your stake is. In South West Africa your stake would be in the center line of the claim of your location. It is not a matter of fact that all I did in the way of describing this by metes and bounds was three claims being nine thousand meters by forty-five hundred meters. You have to describe them individually Each claim is described individually with a number. A claim also has a number, definitely. A claim is about fifteen hundred by three thousand meters, it depends upon whether it is gold or copper. Two gold and one copper in the Spitzkopie. I shall have to refer to the record as to how big the Neardy Claims are. I cannot tell you by memory. One claim has the number. You get the number when you register it. That is given to you in the Registry Office. They get from their own records. I believe I could tell you what the registration numbers were from my field book. It is here somewhere in
my file book. I have not used it lately but it possibly
1011½ has it in there. You can cable South West Africa now and find out that. All you have to do is to cable to the Windhoek people. When this property was taken out there were three claims registered and I had three numbers. They were registered at the same time. I think they were given consecutive numbers. The one for the copper claim was larger than the gold, and you pay more for a gold claim than for a copper claim. It is all down there as to how much I paid for those claims. I was examined and cross-examined on that three or four times by your learned friend here. I paid five shillings per month for the base metal per claim and ten shillings per month for precious metal claims. In this

case it would amount to fifteen shillings per month, I
1012 am not sure. As a matter of fact I testified that I paid thirty-five shillings only. Five shillings for my own license and five shillings per month for six months. That is correct. For this Spitzkopie claim all that has been paid is thirty-five shillings plus the amount of work expended in the claim by me and the men employed there. It is not a fact that all that has ever been paid to the Government was thirty-five shillings. It is checked up to date over two years.

Well, approximately thirty shillings for each six months.
1013 There are twenty shillings in a pound, or there were a week ago. You cannot place a market value upon the property until you develop a definite market value. All mining to a certain extent is speculative. The best of them. Well, then, how can you take a market value, a definite market value on a property of that kind until it is opened up? What you can do is place a market value on the work that has been done on the property. When I say opened up, I
1014 mean ore which was blocked and in sight. I said just now you could not place a market value on it, but I qualified it by saying that all mining properties when they are developed have a definite value; to place a definite market value is another thing. In other words it is highly speculative. As far as the claim is concerned anyone who got
1015 there ahead of me would have it. Anyone knowing that that development was going to take place on the Spitzkopie could have had the extensions and that sort of thing, and the same is true, I take it, of the Otjsongati. I think I testified I put sixty-four pegs on the Spitzkopie. I originally put a number of pegs, more than I usually do because I told you I eliminated three of the pegs. I explained that before. I think I can make a reasonable estimate as to the cost of restoring that mine, granting you have a plan of the land. It was the plan, plus my observations that I based that
1016 upon. My observation extended to a descent into the shaft of the mine, forty feet, as far as I could go. I am referring to the Spitzkopie property. As to the Ubid property, the name of the farmer that is located on it is the Schettler farm. I have given Newberry that description on my return from South West Africa when the report was made.

1017 Q. Now, Major, you said in Exhibit 68 that this group of copper claims "is situated on the same belt as the above Block B. The road so far opened up has good width

and the value of copper throughout the entire length of this property. Pay ore occurred in lenses and in the shale shaft and cutting is gained in width as depth is gained." Do you recognize that?

A. No, not for a minute. Why should I recognize it
1021 after seven days of grilling. Ubid and Spitzkopie are said to be on the same belt and are one hundred miles
1022 apart. That is right. They are one hundred miles apart on the same belt. I should say one hundred twenty-five miles nearer than one hundred miles apart, I should think. I answered approximately one hundred
1023 miles. There may be a variation. I showed you Ubid just now which is on the Schettler farm. The name is on the map. The name Ubid and Schettler both, both shown on the map. That is one. (Indicating.) Here is Ubid. There is Schettler. (Indicating.) If you will trace this, here
1024 is Schettler, number 69, that is right, and that is Ubid. Undoubtedly that was included in my registry number 69, the Schettler farm. It had to be on a Schettler farm. It had to be distinct as to that. I have vivid recollection that I likewise reported to Newberry; that was on the registration anyhow whether reported to him. He got the registration. I told you before all the certificates on the day I received them on both of these trips was sent hime, immediately on receipt of them, as fast as I received them. The number of the claim would be on the certificate. Not necessarily the number of the farm. I think the Schettler farm was mentioned in the certificate, I believe so. My report states that the Ubid property is prospect, positively and definitely. The work
1025 that had been done on the Ubid was the usual prospect work, which covered an area, two claims, four blocks, they were copper claims, so there was approximately two times three thousand by fifteeen hundred meters. When I say the property is on the same belt, I mean by belt, to give you as an example—there is in Colorado a certain belt
1026 called San Juan, that in this particular instance extends about one hundred miles. That is the line of particular rock which contain ore of economic value. As far as the topography of South Africa is concerned, it is a series of mountain ranges, right on end, but not high. Seven or eight thousand feet is the highest altitude. This belt does not cross the ranges, as these belts go. It follows the line of least resistance where these formations occur in these particular ranges and the minerals cross also. It is not along the range

of mountains in that valley that cross-cut the ranges. There are several mountains jumbled up. I can answer that in my own way. Here is Khomas and here is the Hochland, which is higher. It does not extend in any direction. It is just a jumble of mountains. It is on another map. There is
1027 no criterion of your mountains here. It is not really a range at all, not by any means. This belt does not extend right along any definite line. No belt does. This particular one does not extend in a valley, obviously not. It extends to the mountain range, wherever it is. There are a number of ranges in this particular group in this mountain range that carries these particular minerals where they are found, that is called a mineral belt all over the world; not only there but the Colorado and the New Mexico and anywhere else. Any other country I have been in it is called a mineral belt. It may be a short one or a long one. In this allocating of the variable funds supposedly for the development of this property I said I would allocate twenty-five hundred pounds. I have forgotten now. I will check it, if you say so. That would not mean a furtherance of prospecting rather
1028 than the actual mining of ore, although I do not claim anything for the Ubid in value. I claim nothing from the Ubid than will enter into the calculation of value. At the same time this was development or would have been development which the expenditure was called for. In the first place, there would be 667 pounds for equipment, might be. All development is prospecting unless it is blocked out al-
1028½ ready. I returned to South Africa June 28, 1930, that is I left London at that time. I went down to South Africa and visited the Crescent mine, which is one of the properties which went into the contract covered by Exhibit 58 that was entered into July 6th, that is the Vulcan. I found out afterwards the contract had been entered into before I had even inspected or got to the mine. It was made undoubtedly on reports from Milton to Morris, Milton and
1029 Perkins. My reports show there were a number of shafts in the Crescent mine but I have forgotten how many. Quite a large number of shafts. I will count them in a minute. I paid the same amount there, thirty-five shillings for a license for six months. It depends on the number of claims. There were two claims in Ubid and I paid ten shillings; five shillings for the base metal. When you talk about claims like that after all, it is nonsensical. In relation to that question on Ubid, there are eight shafts. I had Malcolm Condie with me

down there all the time I was in Rhodesia. I descended
1031 into three of those shafts. I did not descend in any of the deep shafts because they are under water seventy feet. But I went into them sixty feet in two of them but I am just trying to find out which two they were. Two of them down to sixty feet. You will find in my report I explained that the collars of those shafts had fallen in and it was impossible to go down in most of them. Take that shaft I was down (indicating) the first shaft to the left, number 3 north—I shall not remember this in ten minutes so you had better put it down—that indicates that the ground has all been mined, taken out. That also indicates that at that depth the mine was in good ore or they would not have removed it. I could not go down near the water—I could make a little explanation of that. These old workings, if you will look on this
1032 other map you will see the line of them. There is the line of old workings that runs right along there (indicating). There is the shaft, and part of that shaft was available to use. I went down as far as I could. That was only a few feet, relatively. I might have gone down thirty feet. I could not actually verify it by my own examination. I could not verify the averages of my examination under-ground, but I had the report of two engineers, both of them government men. They are in reports I could not have confirmed, of course, by my own examination, not underground. I so stated in my report. I said in my report that was so. I got
1033 this map, Respondent's Exhibit 15, at Salisbury. I got it from the Department of Inspector of Mines. I got Exhibit 14, sheets A, B, and C, well, they were handed to me, or ones exactly like them in London before I made this trip. These were to corroborate the Perkins and Newton Re-
1034½ port, one of whom was on the ground personally.

The Commissioner: Look at Exhibit 14, sheet C, the markings on the diagram as indicated by diagonal lines. Do I understand that the exhibit is a part of this where you understand that ore had been take out?

A. Yes. Thirty thousand pounds worth of ore was sold during the war from this property. When I say on this property, that was water to there. (Indicating on top of the diagonal line). I could not observe that myself but there is plenty of evidence about that, plenty of evidence.

(Whereupon an adjournment was taken to Thursday,
1035 October 8th, at 2 P. M.; at which time the parties met pursuant to adjournment.

HARRY BRYAN PEARSON, witness on behalf of the respondent, having been previously sworn, resumed the stand and further testified as follows:

Cross-Examination by Mr. Overmyer.

1036 I spoke of Newberry taking an option on the Crescent, an option originally was I believe for 20,000 shares of stock in the company. Now, I am talking primarily of the 7,000 to 8,000 in cash. I do not know what was definitely stated about the capital or anything. I was not in the confidence of the people about capitalizing these things. I was ordered to do certain things which I tried to do to the best of my ability as an engineer. I was always ordered to inspect the property and to be sure that that property was good. Consequently I turned down propositions you discussed as no good in my estimation and I took up properties that were good, I recommended that the two options be taken up. With that unknown quantity as to what shares should be given, and how much the capital was and all that I wouldn't make a recommendation because I had in front of me at that time two reports of the previous engineers that were better men than myself.

I had very many more reports than have been submit-
1038 ted in testimony. Where I recommended taking up an option it included the turning over of some 20,000 shares and those shares were not one hundred pounds per share. They were pound shares, which are normally considered to be the value of shares in England. One pound and ten shilling per share, normally. I couldn't tell you the capitalization. I assume something in the hundred of thou-
1039 sands, because the property would stand for it. The closest mine in actual operation might be 20 miles from the Crescent. It probably it farther. I am not quite sure. You can get it better on the map? It is around that. I have passed it many times. There are a great many mines around there, but this is the only one in actual operation. The smelting of the ore taken from the Crescent could be done at the Crescent. The Falcon mine spelter is too far away. It was about 180 miles I should say by rail and
1040 at that time 40 miles by road. It is not a fact when the Crescent was operated that the ore was first sent to

the Falcon smelter. It was for smelting, but wait, you see you are jumping to conclusions. The ore that was
1041 smelted was taken for smelting. In other words, segregated ore was sent to the Falcon Smelter, that was segregated for smelting. The Falcon was 180 miles away by railroad. Only the best ore was sent there and it is there. The dumps that I found on the Crescent property were the low grade ore and it is there now. It was found that ore could not be sent to Falcon that had less than 30 per cent copper and find it payable. During the war prices for copper were much higher than now, over double the prices that it is now, nearly treble. As to how Morris made this report that I have, dated June 24, 1930, he proceeded to make it—Morris was an engineer who had known the Crescent before any work was done on it and he had owned claims. Well, blocks, if you like to call them so,—close to the Crescent. He was interested in the mine and in time was permitted underground in the mine, so that he knew the conditions pretty nearly as well as Malcolm Condie. He was approached by somebody else to make that report. That report was delivered to me, I explained in my testimony, in Salisbury the night I arrived there on June 24th, I believe, of July. I have made an estimate of cost to the Crescent to bring about the development that it had put on this property. I stated the whole of it on direct. I do not remember all of the
1044 details. We wil say it would cost approximately 10,000 pounds.

Mr. Gilbert: He is inquiring about the value of the work that was already in before you went there.

(Witness): It is a hard question to determine the value of the work done on the Crescent before I went on, but anywhere between 10, and 15,00 pounds, possibly more. I
1045 did testify to my estimate of the value of that development work that had already occurred. In doing that I took into consideration the original cost of installing the work. I must have estimated some depreciation in its present condition.

Mr. Overmyer: However, this was one of the properties that of course you could not descend very far into.

1046 A. No. When I examined the Crescent, I had with me the reports. My own examination was in one sense relative, which was to endorse as far as possible, the reports

of engineers who had done the underground work and knew their work.

Mr. Overmyer: Did you consider that endorsement that you should go down 60 feet— There were levels of 500 and 700 that were under water, major?

Mr. Gilbert: I object to that as argument.

The Witness: I will answer that question. I had with me those reports.

The Commissioner: I think that is legitimate cross-examination, a proper question. He has offered opinion, expert testimony. Objection overruled.

(Witness): I had with me those plans which had been submitted to me in London and I had the reports of the previous engineers who examined that property and I could admit and just now started to say that those men were better men than myself. Those men had been underground. All men are liars, so the prophet said. That is what I have taken into account and I have turned down more property
1047 than I have ever taken up. I took into account the fact that one of the men particularly, absolutely no question about it, about having been underground throughout the whole of the workings and the other man had gone as far as he possibly could underground, and had analyzed the property from one standpoint and the other man, Perkins, from a metallurgical standpoint. I took into account the examinations of both of these men and I then went to work and swiped the whole of that out and only took one-third of the estimates. The estimates only amounted to one-third of the amount of ore of what was the estimate of production of the property and if you will turn over to Perkins' re-
1048 port you will find it, and read my evidence on direct examination. I do not recall Perkins' estimate of what it was the putting in of that work. Mellon speaks of the ore having been extracted for the two levels, one that was put in at 60 feet, and he likewise speaks of the pillars that are formed to support it. I washed out that estimate which he makes of 3,000 tons of ore. I did not take it into account. There is a removal of ore on the property. On this
1049 property to get the percentage of ore and considering its gold content, on what would show a profit, would be six per cent. As to how much gold I would consider necessary, well, on the surface of this property, of for at least 40

to 60 feet in depth according to the other engineers, and judging from my own examination, 12 pennyweight, which is 48 shillings. You can call it one dollar a pennyweight to get it down to your American practice. I didn't expect any gold from the ores of the Crescent. And further with that gold—you don't ask me why. Why don't you give yourself a chance? As to Mellar's statement that he took samples from the outcrop and possibly only 3/10 of one per cent copper,
1050 that is of the outcrop, because it was all gold, the copper was leached out. I explained in my direct evidence that I panned out the gold. How could you get a sample of 10 pennyweight of gold in a ton of ore— Please talk about something you know something about. If you can tell me how you can get 12 pennyweight of gold, which is less than an ounce, per ton or less than 2/3, out of a ton of ore, of course I didn't bring any back. I didn't take any to Newberry. I didn't have to. The gold was all panned on the property. As to how large a suit case I would have to handle a ton of ore, I would have to have a ton suit
1051 case. It is not necessarily a fact that some of these other little pieces of ore supposedly had some gold in them. The Crescent ore had traces of gold. It perhaps had a trace, but they were not picked for their gold content. I am not testifying as an assayer, although I happen to be a qualified one. I am testifying as an engineer and am just telling you. I am not an expert. In assays of any kind unless it is gold ore, it is very difficult to find a very small content of gold in an assay. I reported to Newberry every week by letter. In my first report to Newberry, I didn't sug-
1052 gest that the working capital of the Crescent should be 30,000 pounds.

Q. Wasn't this question put to you and didn't you make this answer on direct examination: "Q. Did you state anything about the working capital one way or the other?" "A. In the letter to him I suggested that the working capital should be in the neighborhood of 30,000 pounds. That data was merely a tentative suggestion." Did you say at that time on direct examination in relation to the Vulcan property—

"A. I never made any such a statement as that.

I was under direct examination with relation to the Vulcan property and if the Crescent invades there and it was only as one of the properties of the Vulcan—

1053 I thereafter went upon the Crescent property.

Mr. Gilbert: It is barely possible the reporter made a mistake so far as that is concerned. He said he didn't answer the question that way.

Mr. Overmyer: You didn't deal with the amount of the allocation of the 30,000 pounds in your testimony.

A. I know I have not on my direct. I don't admit it, but if it is worth anything to you, say it is so if you want to. I don't admit it but to satisfy you and in order to prevent further argument you may say so. I don't admit it. I

1054 was dealing with the company, not one individual property. I made a report to Newberry at once after examining the Crescent property. I first cabled him and then made my report by letter. Condie was waiting for me at Salisbury and he had a mine of his own at Masaaba.

1055 That mine belonged to Condie at that time. That was on the eastern extension of the Crescent but Condie had sold the property years before. The Otsongati Extension is back over in S. W. Africa. I had examined the property at the same time that I examined the Spitzkopie and Ubid, which are supposedly transferred to the Permanent Investment Company.

Q. You made your reports, if I recall, on the Spitzkoie and Ubid which are supposedly transferred to the Permanent Investment Company while you were yet away from London.

A. No. Not on that. I made those on my return. If you will look at the dates of those reports, you will see February and March 1930. My reports are dated. The Otjsongati report was made in March. I was already in England then. I was in England a month maybe. I don't remember the date in February I made those reports. I asked the question myself as to how it came about that those three properties were not linked together to go to the Permanent. I couldn't tell you.

1056 On the Otjsongati Extension I remember of transferring the location fees, that is one pound a month for six months and the prospecting certificate was five shillings. On top of that I spent upon the property partially before I located it something about from 350 to 400 pounds in prospecting. As to whether that is all it would have cost under-

ground to go and pick up this piece of property, you could not have done anything with it at that. This claim, how
1058 can you pick up a piece of property unless you do work on it. Work costs something and the work on the property costs a certain amount of money. How could you have operated that property for a month. I was not the only
1059 prospector in South Africa at that time. There were ten American companies and five Canadian companies at the same time looking for everything. I had a defi-
1060 nite description of the Otjsongati Extension after I had registered the property and by description it was definite. As to the number of claims, the form on which it appeared and all that sort of thing, there are four numbers, four different numbers of the claim. As a matter of fact they were not located on the Otjsongati farm at all. They were called the Otjsongati, but they were not located on
1061 the Otjsongati farm. I returned to England the second time in December, 1930. I left England on the 20th of June, 1930. I was away from England for my health before I had testified at Newberry's trial.

Q. Your wife didn't know where you were, did she?

Mr. Stansbury: I object to that.

The Commissioner: I don't know why you should ask whether his wife knew where he was. Objection sustained.

Mr. Overmyer: Q. Did you receive any letters from the official receiver?

Mr. Gilbert: I object to that.

(Witness) What is the use of talking such rot? You know all that. That is evidence with the old Bailey—

Mr. Overmyer: The commissioner don't know about that.

A. He can know. I didn't. But my wife did. And they were not sent to me either.

Mr. Overmyer: So they were not sent to you.

1063 Mr. Stansbury: That is objected to. It is not cross-examination.

Mr. Gilbert: Now whether a man's wife knew where he was would not affect his credibility, his honesty or integrity. Why, that is the most preposterous thing I ever heard of.

The Commissioner: I have ruled on that. Why these communications were not sent to him, that is the present question.

Mr. Gilbert: I object to that. It has no bearing upon the proposition or anything about it and it does not have anything

to do with the credibility of the witness, either, whether he received letters from the receiver.

Mr. Overmyer: Was this question asked and did you make this answer?

Mr. Stansbury: I object to that as irrelevant and immaterial.

1067 The Commissioner: Objection overruled.

Mr. Stansbury: Exceptions.

Mr. Overmyer: Were these questions asked and did you make these answers:

Q. Did I understand you to say that you returned to England in February, 1930?

A. Yes.

Q. In 1931, this year?

A. Yes, sir.

Judge Holman Gregory: You afterward returned in February of this year?

A. Yes, sir.

Mr. Singleton: Have you been here since?

A. Have I been home since?

Q. Yes.

1068 A. No. I have been out of England most of the time.

Mr. Gilbert: Your honor, he is doing just what your Honor sustained an objection to, as being—he is putting the so-called record in evidence and I object to it. Your Honor has just sustained objections to his asking these questions.

Mr. Stansbury: It is not proper cross-examination.

Mr. Overmyer: Your Honor, he has already testified that he got back in January or February, 1930.

(Witness): You just said February.

Mr. Overmyer: That is the point. You did say it was February over there, it was December over here.

(Witness): It is a misprint.

The Commissioner: Go ahead. Read your question.

Mr. Overmyer: All right.

Q. You finally returned in February of this year?

A. Yes, sir.

Mr. Singleton: Have you been here ever since?

A. Have I been home since?

Q. Yes.

A. No, I have not. I have been out of England most of the time.

Q. What?

A. I left England again in February.

Were those questions asked and did you make those answers?

Mr. Gilbert: I object to the question as having four or five different questions in it.

The Commissioner: I don't think that is harmful. It is leading up to a proper question.

(Witness): The last question is correct. I left England at the end of February, quite true. In relation to arriving in England in 1931, that was obviously wrong because my evidence previous to that brought me home on the 29th of December, 1930. I couldn't have made that mistake. That is a typographical error somewhere.

1071½ Mr. Overmyer: (Continues reading.)

Judge Holman Gregory: When did you leave England then?

A. When did I leave England?

Q. Yes.

A. About the end of February or the beginning of March after I had gotten through with the whole of my reports and finished up.

Judge Holman Gregory:—

(Witness): Let it go— I left England about the end of February or beginning of March after I had gotten through with the whole of my reports and finished up. I had seen Newberry plenty of times in 1931, this year.

1072 Mr. Overmyer: When did you return to England?

Mr. Gilbert: I object to that question as immaterial when he returned to England.

Mr. Stansbury: And not proper cross-examination for another reason.

The Commissioner: Objection overruled.

A. In June. The February preceding it I testified in the Newberry trial. At the time I went to Southwest Africa the first time I was supposed to also look at the Otjsongati

1073 property. That was the one that Craig recommended to me and its the one I turned down. Of course when I formed an opinion as to the Otjsongati I took into account its proximity and association with the Otjsongati property. I passed up that property. I don't know how much it was offered to me for.

Q. When you returned the second time did you receive instructions from Newberry to do so, didn't you on December 11?

1074 A. Yes, sir.

Q. And at that time did you know whether Newberry had been indicted or not?

Mr. Gilbert: I object to that question as having no bearing here.

Mr. Stansbury: And it is not cross-examination.

The Commissioner: He may answer it.

Mr. Stansbury: Exception.

(Witness): I did not. I came home ostensibly for the purpose of looking at machinery to put on the property

1075 that I had examined such as the Crescent— When I first went on to Gael. I forgot the number of shafts, 5, 6 or 7? You asked me the question yesterday as to how far I went down into the Gael shafts. I couldn't go on any shaft on any of those properties below the 50 ft. level on account of water. That applies quite generally to every one of those shafts with the exception of the Neardy. That is the property that had had a smelter on it. I was informed that the Gael mine had been worked up until the end of 1917, to the beginning of 1918. That was the mine where they struck zone water and it filled up. In going down in this shaft on the Gael I didn't try to get a sample of the ore. I might have. The vein was exposed so I could have done so, in the wall. I took the ore from the dump.

1077 Q. Now, so far as framing any report on the Gael property as to what workings on it had been done, it was limited really to your examination of the shaft down to a distance of 50 feet, wasn't it?

A. The deepest shaft was only 75 feet. In the Gael it was impossible for that matter to go on to any level on account of the shaft. On the Neardy the development work ceased a little over a year before I examined the property. I believe it has been testified to as to how much the option on that property was to cost. I recommended that it be taken up at 15,000 pounds.

1078 Q. Did you see the certificates showing the right to mine this property in Stenhouse or whoever were the right licensees?

A. I can only answer that this way. These properties were under option at the time. They were properties which

obviously while they were under option, the certificates had been granted and were passed in England. It was not necessary for me to see the certificates when I went to the mining commission's office and knew those properties belonged to the individuals who had given the options. I had the same description of the property before I left England, of the Neardy property as I had of the others. There was an option given to the Crescent and on the Gael. I had no more definite description of the Neardy than of the other properties under option. It was 8 blocks in the Makoni District. That is the Neardy. The Gael property is in the Lomagundi District.

Q. And all you had then was what appeared as based on this option around 8 blocks of claims in the Makoni District near the Rhodesia border about 10 miles from the railroad, these blocks having about 3 miles in the direction of the mineralized zone, embracing recoverable values thus covering gold, silver and copper, to take the formation of lenticular mineralized masses. The mine has been well opened up by means of added levels operating into the mountain of gold
which is 700 feet in length cross formation exposing the
1080 mineralized zones. There are two lodes, the north and
south. High values have been met with in these developments.

A. That is the description I had. I did not need to locate it.

The Neardy property met that description. As to the
Neardy property I testified that I took up the rich ore
1081 I saw around. As to whether I could not have taken a
specimen of the ore from the shafts the number of shafts on the Neardy property is infinitesimal. There are most of them adits. I could probably. I don't know. The veins were exposed. I might have done so. There are many reasons why one cannot do a thing. As to why I could not have taken a pick and hit the wall, well if I had one hundred weight of
dynamite to place in the walls, I might have done so. I
1082 didn't have it. I could not have knocked out a sample
with a pick. The adit itself was comparatively clean I believe of old pieces of ore that had fallen down and been left there. It was not to my knowledge to make these properties attractive. I didn't expect to go back again. I didn't
expect to have anything to do with the development. Re-
1083 ferring to Respondent's Exhibit 30, that is a copy. I
don't know when the copy was made. I know it is sim-

ply a copy of the original report. I do not know who actually hit the typewriter. I don't know where that was prepared, whether in Chicago or London. I have got one that I believe was made on the same typewriter here that I brought from London. It might have been. I don't know. I don't
1084 know when I first saw that Exhibit 30. I couldn't tell you whether I had ever seen it before I got on the witness stand. I didn't put any mark on it to tell whether it is my exhibit. I first saw Respondent's Exhibit 22 when I had it made at the office of Mr. Gilbert. I probably have a copy from which Exhibit 22 was made. I probably have them some place. The originals were in longhand. That is the reason they were typed.

Mr. Overmyer: That is what I want to know. Let the witness answer.

A. I have longhand copies of these. The same is
1088 true with respect to Respondent's Exhibit 23 which is an estimate of the Spitzkopie. And with respect to Respondent's Exhibit 24, I have an original one of my own. When I made that up, I might have torn it up. I kept it until this was typewritten and checked it.

Mr. Gilbert: I think one is lying on my desk to tell the truth.

1088½ (Witness): Respondent's Exhibit 13 is a copy of Malcolm Condie's original report that was made from the old typewritten document. This was typewritten in Mr. Gilbert's office. I have probably got the original among my papers.

Mr. Gilbert: He had marks on there and figures. That is the reason that is copied. I might have that Malcolm
1089 Condie report at the hotel. The thing is marged all over.

Respondent's Exhibit 12 was typewritten in Mr. Gilbert's office from the copy I brought with me from England. It was not in my handwriting. The original of this was typewritten obviously. That is a government report. I got the typewritten matter in my desk in the geological survey office at Salisbury in the geological survey office, the assistant to the director of the survey. I had that paper at the time I went on the stand. I had the original carbon of that document. The original was prepared for me at Salisbury. I might have had two copies. I brought one copy here with me and the copy which I brought here was used as the original and it has been compared by

me. Respondent's Exhibit 11 was made from the original report of Perkins. This was not directly made from that. It is quite obvious this is a copy. It was copied from the
1093 original that was handed to me. I didn't have the original. I had a copy, not the original. I had the document from which that was copied. The copy that I had was not the original of Perkins. Neither one had been copied from the Perkins original report. I saw Perkins' original report. The copy which was delivered to me had been prepared at that time and was checked by me from the original Perkins report. I don't know whether Perkins was still around at that time. It was checked by me. I never met him. I explained that. As to Respondent's Exhibit 10, I have the copy from which that was prepared. That was a copy from the original which was in my office, until I returned to England. I know it was sent to me in December. The original of it was handed to me by the man who made it. That is the one I got in Salisbury. The copy that I had from which Respondent's Exhibit 10 was made was prepared in the office. I had the original and sent it to London. I had a copy made from which Respondent's Exhibit 10 was made. I am not sure whether I had it copied in London or Salisbury. I didn't have Morris sign the original. It is not usual. There is only one orig-
1096 inal. It is not usual when the report is made. Respondent's Exhibit 9 was prepared from the report of Miltom of which I have seen the original. That was given to me before I left London and prepared in Newberry's office.

Q. Now getting down to Respondent's Exhibit 6, was that also prepared in Mr. Gilbert's office?

A. This one, this copy. The original is my report. The original is my own report and I testified to this copy when I gave the original to Newberry. I had No. 2 copy from the typewriter of one of the secretaries in the office. That
1097 is carbon No. 2 prepared in Newberry's office. Respondent's Exhibit 6, which is my report on the Spitzkopie property, the original was used in the trial of Newberry. I imagine the copy from which this is made was my No. 2 carbon. It was mine. I didn't typewrite it. I couldn't tell you who typewrote it. All I mean is this I can authenticate it. As I explained a dozen times this was my report. I don't know where I got it from. Respondent's Exhibit 35 is my estimate with reference to the Gael property. I think made up in my handwriting a memorandum of this from which

this document is copied. I still have it. I probably have it. The same is true with reference to Exhibit 36, which is my estimate with reference to the Neardy property and that Respondent's Exhibit 37 which is the Otjsongati Extension estimate. Exhibit 27 is the Stenhouse report. That is not the original report. That is a copy. As to how it happens that I do not have that copy, I don't want to. This copy when I took it there had the map appended to it. I brought it back. There was one reason there were other reports for me to put this report in and copy it. That is the original. Definitely that is a report of the Neardy. The report of Stenhouse too was interested in the Neardy property, interested in negotiating with Newberry on it. Respondent's Exhibit 25 was prepared in London. It was prepared directly from my original report and the same is true as to Exhibit 31. When I came from London, I brought that.

Q. You brought the other reports too, for that matter, didn't you?

A. They were not reports, or rather they were not copies of the originals. They were copies of copies. That is a distinction.

1101 Q. Now, then, Respondent's Exhibit 26, I notice there is on there 221. What was that put on there for, do you know?

A. No.

Mr. Gilbert: I put that on there. I thought I would start with 200 in this case and I changed my mind. Yours ran up to 202.

(Witness): The original of that I got in 1929 at Windhoek. I had the original copy. The original is in London. The original is in London somewhere I suppose. I don't know.

Q. Is there any change in the first place you had put on the Pretoria Mines Estate Limited?

A. Yes, I did and aside from that the original was left in the original German in which it was made. If any of you gentlemen can speak German, you can read it. If you will pardon me, if you will look at this you will see the German words are interspersed with the English. The English had to have it. They are all German (indicating). Judge Walker asked me about that yesterday. The Otjsongate property is the old one (indicating). This is the one (indicating). There are 8 on there. The one Craig wanted to interest Newberry in is 1, 2, 3, 4, 5 and 6 (indicating). The 6 in the ex-

tension, not excluding what seems to be called— The Lorentz-Bone were partial owners of that group.

Q. Major, did you have copies of these contracts between the Permanent, Vulcan, Pretoria and Rhodesia?

A. Only since I came here. I didn't bring copies. The originals I had handed me at the old Bailey. Referring
1103 to Respondent's Exhibit 17, I brought that from England. It was prepared in England. It was a copy of my original report right from the original report. The last page is typewritten from my original report. The last page is a plat made in the mines office of the Commissioner of Mines, who initialed that. This is not the original. It is compiled from the scale maps that were put in to the Commissioner, where these properties were located and operated. This is the original. I had copies made. Just the one. I had the one and the original report which I made. I didn't think I needed it. I brought in that one myself. I don't know where 14 Copthal is. 15 Copthal is Newberry's address, Throck-
1105 morton House. I never heard of Ludgate House. I never went to 42 Cornhill. I know Cornhill. I don't know whether it would be Mansion House side or the other. I don't know. I never went to Truebroad Street. I have never been to the Truebroad Street building. I have never met Arthur Cline. I have never met Harry Green. I do not know Spellan. I never heard about the Broad Street Press until I came back to London. I don't know Ellman. I never saw him before and never met him since. That old
1106 Bailey trial that I refer to was in June. I have forgotten the exact date. But from the first of June until the 8th, somewhere around there. Our procedure in England is somewhat exceptional. You cannot go into court until your own evidence comes up. Therefore I do not know what occurred before my evidence was taken in court.

Re-direct Examination by Mr. Gilbert.

On cross-examination I was asked if I could not go to the Spitzkopie property at any time. I think I answered that I could not. The reason I could not get it at any time was Spitzkopie was held very closely by a number of people at Windhoek. The mining laws for Southwest Africa give one month's grace after you have paid your fees and your time has expired in which you ought to do some work before they shut down on you. I was aware on this month's grace we

had until this month's grace was over and I knew that right away having been over the property previously and appreciated its value and located it. I got there first. I located it. It was 7:30 in the morning and in the middle of the day there were a half a dozen locators wanted it. It was sort of the way like they used to have out West. That is how I
1108 got Spitzkopie. I got on to Spitzkopie. I let my claim to it some time in November or December, I have forgotten the date, in 1929. I couldn't remember the exact date. I did ask several questions about the specimens that I selected. I was asked about that. I was asked if I could have gotten some more from the job and I said I might have but I selected them from the dump. The reason why I selected them from the dump rather than from the shaft, if I had gotten some from the shaft it was because in my opinion the shaft there is little or no criterion of the ore which may be recovered at depth in the lower workings. The material on the dump was at the end of the dump or the top of the dump and shows the last material that was removed from the lowest workings in dumping from the shaft. That is the reason I selected from the dump rather than the upper portions of the shaft that I got into. That was the reason in these instances.

Q. Now you were asked something in regard to your testimony about old Bailey and reference was made to maps and plats, which we have introduced here in evidence. Will you tell us whether or not those maps or plats, copies of them were introduced in evidence at the old Bailey?

A. I don't really believe they were. I didn't take any map of the country with me to old Bailey. I didn't take any maps or drawings of the mines to old Bailey with me. Nobody else had any when I got there. None were used in so far as I was concerned, not put in by me at any rate. In regard to the discussion of these schedules referred to in government Exhibit 58 in which it says that property was 20 miles from Windhoek. That description refers to Spotzkopie. I did not say it was 20 miles from Windhoek. It is 68 miles and 20 miles from the rail road or 64 from Windhoek by another road. I have never had to do with schedules until the originals were shown to me at old Bailey. The description that is contained in the paragraph referring to 20 miles from Windhoek would not enable me as a prospector in that country to locate the property before I went there. I could obviously locate it but not if I had never been there before.

Mr. Gilbert: You visited the mines within a radius of 60 miles of Windhoek didn't you?

A. That is rather in answer to your question, I did 11,000 miles in the year I was in Southwest Africa, visiting and prospecting proposed properties I didn't go on the old mining properties in that part of Southwest Africa. There was nothing else in there that could have fitted that descrip-
1112 tion. Spitzkopie was an old claim that the rights had expired on. It was not a new prospect at the time I cabled to Newberry the property I then had in mind, the exact option price on those properties. At the time I cabled I must have had recollection, by the questions directed to me this afternoon and I should have said elsewhere.

I could not say whether my recollection now is substantially correct. My recollection now of the option price is substantially correct. I couldn't say it is definitely correct, but substantially, yes. I don't expect to get any gold from
1113 the assay because it was in a zone where you could not expect to find any gold in quantity. I testified on direct that it would take 30,000 pounds to do the development work upon the Crescent property. I didn't mean that if I said it. The 30,000 pounds if I said that was under
1114 a misapprehension. My view of the Vulcan property was that the three of them would take 30,000 pounds to develop. That was the Crescent, the Spitzkopie and the Ubid. The Ubid was only a prospect. I got back to London the
1115 29th of December 1930. I arrived in South Hampton, England. There must have been a mistake made between that and my former arrival which was in February of the year before. There must have been a mistake about that. I don't quite understand that. I didn't have any intentions of making that statement at all. I was out of England then.

Q. Was there anything asked about your being out of England?

A. I came home with the intention—

Mr. Overmyer: Yes and you got in bad.

(Witness): I came there with the intention of organizing machinery, etc., to work the Vulcan and the other group of properties. I arrived home and I found an absolutely different set of conditions than I expected. While I got very nervy, at the same time I had bronchail asthma and remained in England as long as I could until I was able to go to Brockton and my own doctor who had been my family doctor for

many years positively ordered me abroad and I went. My going to the doctor had no relationship to the matter I
1116 testified here about. I requested a typist in your office to copy for me some original longhand estimates. These estimates that were handed to me are my estimates. They are original estimates so far as I am concerned. Those reports were made up in London. That is Respondent's Exhibits 29, 25 and 31 respectively. They are copies of my original reports. They are not originals. Respondent's Exhibit 27 is a third copy of the report of Stenhouse he handed me in London before I left for South Rhodesia. I requested that to be copied in Chicago. I have a copy here. The report of Spitzkopie is a copy of my original report made here from a copy, from No. 2 copy of my report. I wanted that copy made and put that copy in instead of the other copy. I wanted to retain it. I didn't want them to become a part of the court files here so I could not have them, and the same is true of Respondent's Exhibit 9. That is a copy of Milton's. The same thing with reference to No. 11, that is Perkins' copy. The same
1119 thing is true of Exhibit 12 and of Exhibit 11. I have a garbled original of that, very much garbled. The copy was made because the original was garbled. I can produce it if you wish. The man that made it was Condie himself. He did not understand a typewriter and it took about three hours to type it out. There was trouble in making it. That is absolutely a true copy of what I had. Respondent's Exhibits 23 and 24 are my estimates made from manuscripts. They are originals of my estimates. They were typed from long hand notes manuscripts and the same is true of Respondent's Exhibit 22. Respondent's Exhibit 30 is a copy of a copy typed in the office because I wanted to keep a copy my own copies of the original that I originally got. I personally compared these copies that were made in the office of the firm you are employed by and read them over. They are accurate, complete and true.

Cross-Examination by Mr. Overmyer.

1121 These estimates were my own handwriting and were copied since I have been here. The estimates from which the typewriten copy was made was prepared from my own notes. They were prepared from my notes and manuscript which are from my notes and were part of my original notes, from my original notes which were left in London.

The Spitzkopie property was registered in the morning; I couldn't tell you the time but you could easily get it; I could easily get it for you, telegraph or cable to the registrar in that country. You only locate between sunrise and sunset.

1122 You are near enough to the equator so that the sun never rises before five in the morning and it sets before seven at night, so that you are limited to a certain time for location. I don't know when we registered it; I know when I located it I had a hunch to register it. I located it in the morning; nobody else was on the property at that time waiting to locate it. I would not have gotten my location if that had been. They might probably have been abandoned fourteen days before that. As to whether it was abandoned fourteen days before I relocated that is a question for the Inspectors of Mines to determine. He can give you any

1123 latitude he wants to. I said it was abandoned fourteen days before. I presume it was but I couldn't take chances on that abandonment because the Inspector of Mines might have said: "I will give these men another 48 days to do their assessment work." That is the law. They did not think it was wise to have a contest as to relocation; I do not know definitely whether I had any contest over that claim. When I came back, I believe last February, I saw—it may have been since then—I saw the pay up certificates that were used on these properties, to the government, February

1124 of this year. I don't know now who had them. They were handed I figured at the Old Bailey. I suppose so. The originals were there. I suppose the two companies that had them paid them all to the Guernsey Company. I saw on the certificates who paid them but I really have forgotten. I didn't bother my head about it. The name of the doctor who ordered me out of England for my health is Dr. Clinton Durwait of St. Peter Square, Hammersworth. I was also ordered to keep away from the business. I did and my Missus, even Newberry's business; and I got hell from my Missus for not writing her.

1125 Mr. Overmyer: Go on. Carry on. You are not married I take it. Then you ought to know. After I had been employed by Newberry I reported to him by letter on the Crescent, August 12, 1930. If I figure 30,000 pounds was essential for working the property, it could only be determined by that. If I had brought my letter book with me I

might be able to tell you. Mr. Gilbert referred to that
1126 first cablegram to Mr. Newberry on the Crescent property. That was on the 12th of August.

Mr. Overmyer I referred to the letter that he wrote after he had cabled.

The Witness: I am sorry.

Mr. Overmyer: I say, you went to Salisbury and went immediately to the property and cabled?

A. I came back on the 30th and cabled on the 30th. I wrote a letter on the 12th. I say, those services, the receipts for payment of fees up to date, last February I am
1127 sure—I saw them in London, was shown them in Mr. Newberry's office. I didn't see them at Old Bailey in
1129 June. I wanted to know that was all. These properties that are on the farm and not on the public land, the surface of the land is still owned and retained by the farm owners. The mineral rights are reserved to the state. When one goes upon a farm down there in Southwest Africa and stakes out a claim the right which is conferred upon him by the Government is a mineral right that gives him the privilege of building shafts, hoisting mineral and moving it off of the farm. I know restrictions in that regard and he must not go within 500 feet of any dwelling house or any property used for human habitation on that farm and he must not interfere with any growth of grain or growing crops, without he pays dilapidation to the owners, which I speak of according
1131 to law. You have the right of access and the right of ingress and all easements including water. He gets all of that when the government registers the claim. A quit claim deed in the west is practically the kind of deed and right you get. The ordinary every day mining title or quit claim deed which you do not consider a warranty deed, the same thing applies; it is a right conferred by the government insofar as you comply with the law.

Whereupon the hearing was adjourned to October 9th at 2:00 P. M. at which time the parties met pursuant to adjournment.

1133 THOMAS MARSHALL, a witness called on behalf of the respondent, having been first duly sworn, testified as follows:

Direct Examination by Mr. Stansbury.

Reside at Chicago, Illinois, I am an attorney at law.
1134 Have been Assistant State's Attorney and First Assistant State's Attorney and Assistant Attorney General and Special Assistant Attorney General. During the time I occupied those positions I was engaged in the practice of criminal law, and am familiar with the statutes of the State of Illinois and the laws of the State of Illinois relative to crime.

Q. Is there a statute in the State of Illinois making the receiving of money, knowing the same fraudulently to have been obtained, a criminal offense in this state?

Mr. Overmyer: I object to that, your Honor. It invades the province of the Commissioner. The statutes speak for themselves.

1135 The Commissioner: Well, so far as I know, and as far as my experience has extended, and my understanding of the rule, it is usual to offer evidence as the evidence of the fact of the law and the tribunal to show the law of the locus of the tribunal but we are all aware of proving the law of a foreign jurisdiction; that is a customary procedure.

Mr. Stansbury: If your Honor please, Justice Holmes has stated the fact to me that it is an offense in the State of Illinois to receive money knowing the same fraudulently to have been obtained. It is the position of the respondent that Judge Holmes has made a misstatement of a fact relative to the law of the State of Illinois and in consequence this witness is offered to your Honor that Justice Holmes did make a misstatement of facts relative to the law of the State of Illinois in the case of *Kelly* v. *Griffin*, 241 U. S., and we want it to appear of record that Justice Holmes made a misstatement of facts relative to the law of the State of Illinois; and it is for that purpose this witness is offered.

1136 (Whereupon the colloquy between counsel and the Commissioner intrudes and argument and citation of authorities by respective counsel were presented to the Commissioner.)

(Whereupon the further hearing of this cause was continued to October 14, 1931, at 2:00 o'clock P. M. at which time the parties met pursuant to adjournment.)

1136 (Whereupon the colloquy between counsel and the Commissioner and the argument and citation of authorities proceeded.)

(Whereupon the further hearing of the cause was continued to October 15, 1931, at 2:00 o'clock P. M., at which time and place the parties met pursuant to adjournment and thereupon the colloquy between counsel and the Commissioner and the argument and citation of authorities proceeded.)

1239 The Commissioner: Mr. Stansbury has evidently gone that far that the fact that the demanding governments have rested without offering any evidence or witnesses on the question of fact—that has never been done so far as I can learn in any extradition hearing. If I decide this you need not be alarmed, Mr. Overmyer, there will be no—if you go into it I will limit the number of witnesses as I have a right to do, and if I do that, it is now half past three o'clock; if it is satisfactory to you gentlemen I would like to reflect on this overnight, and you come in tomorrow at two o'clock. I will let you know what my decision is, so you can be prepared to go on Friday afternoon with this case.

(Whereupon the further hearing of the cause was continued to October 16, 1931, at 2:00 o'clock P. M., at which time the parties met pursuant to adjournment.)

1243 The Commissioner: I do not think that these witnesses who are to testify here should be excused. I don't think I will enter an order excluding them.

THOMAS MARSHALL, having previously testified, resumed the witness stand and further testified as follows:

Direct Examination (Continued) by Mr. Stansbury.

Q. When were you admitted?

The Witness: I was admitted to the practice in the State of Illinois on November 4, 1897. I was admitted in Springfield, Illinois.

1244 I am a member of the Chicago, Illinois and American Bar Associations. I stated the other day that I held

certain official positions in the government of the State of Illinois; in December, 1908, I was appointed Assistant States Attorney; that was under John W. Wayman, States Attorney. Shortly afterward I was appointed First Assistant States Attorney of Cook County. I served as First Assistant States Attorney of Cook County the best part of four years. Thereafter I continued as an Assistant States Attorney for a little time and then resigned. As an Assistant States Attorney of Cook County and as First Assistant States Attorney of Cook County during the period of time I have just stated I had general charge of the States Attorney's office under the States Attorney and was particularly in charge of grand jury and indictments. I was personally responsible for indictment
1245 work. I did serve as Assistant States Attorney General and Special Assistant Attorney General of the State of Illinois. I served as Assistant Attorney General during the Brundage Administration and my activities as Assistant Attorney General and Special Assistant Attorney General were, generally speaking, drafting of indictments and the defense of same in criminal prosecution; I am familiar with the statutes and criminal law of the State of Illinois. There
1246 is no statute in the State of Illinois making—"receiving money, knowing the same to have been fraudulently obtained," a criminal offense in this state; there is no decision of the Supreme Court of Illinois wherein it is held that the charge "receiving money, knowing the same to have been fraudulently obtained" is a crime in the State of Illinois. There is no decision of the Appellate Court of Illinois wherein it is held that the charge "receiving money knowing the same to have been fraudulently obtained" is a crime in the State of Illinois. "Receiving money knowing the same to have been fraudulently obtained" is not a common law crime in the State of Illinois. I have read the observation of Judge Holmes in the case of *Kelly* v. *Griffin* reported in 241 U. S. at page 6. The observation of Judge Holmes appearing on page 15, the first sentence of that report "but the receiving of property knowing the same to have been fraudulently obtained is a crime by the laws of Canada and Illinois," does not correctly state the law of the State of Illinois. I have read the unpublished opinion of Judge Landis in the case of *Kelly* v. *Griffin*. The observation made by Judge Landis that "the statutes of the State of Illinois against fraudulent conveyances would include the charge of receiving money knowing the

same to have been fraudulently obtained" does not accurately state the laws of Illinois. In my opinion "receiving
1245 money knowing the same to have been fraudulently obtained" would not be an offense punishable under the fraudulent conveyance statute of Illinois. "The receiving of money knowing the same to have been fraudulently obtained" is not made a crime by any existing law of the State of Illinois. The act of "receiving money knowing the same to have been fraudulently obtained" was never a crime or criminal offense in the State of Illinois during my experience as a practitioner dealing with the criminal law.

1247 Q. In your opinion is there any law in this State of Illinois by statute decision or common law which makes the substance essentials or ingredients of the offense of "receiving money knowing the same to have been fraudulently obtained" a crime in this state?

A. In my opinion the essence of the charge is not within the statute or the common law as an offense in Illinois.

Cross-Examination by Mr. Overmyer.

Q. In Illinois we have statutes on accessory before a fact and after a fact; now assuming a man prior to the commission of obtaining money by false pretenses counsels and advises in the commission of the crime and thereafter participates in the spoils, would you say that he was guilty of any crime?

Mr. Stansbury: I object to that as not proper cross-examination and a hypothetical question based upon no facts in this case.

The Commissioner: Objection overruled. I think probably the hypothetical question does not state all of the possible elements but I think I will overrule the objection.

A. Obtaining money by false pretenses is an offense under the laws of the State of Illinois, but one who is an accessory under our law, is a principal in that crime. Accessory after the fact is also guilty of an offense under the laws of Illinois. Accessory after the fact is defined by the statutes. I would rather read it from the language of the statutes, which is true of the common law that was receiving of stolen property made the receiver guilty as an accessory after the fact, but in this case receiving by false pretenses is another matter.

1249 Q. Well, the point is this, isn't it, Mr. Marshall, at common law a man could be tried and convicted as an

accessory after the fact and receiving the money knowing it to have been fraudulently obtained?

Mr. Stansbury: We object to the question.

The Commissioner: Objection overruled.

A. Yes, but the receiver at common law in larceny was an accessory which was later elevated—made a misdemeanor and subsequently in certain cases became a felony as a substantive offense with no relation to larceny.

1250 Q. On the other hand, by analogy, isn't it true that when he had received the property which he knew to have been fraudulently obtained he would be guilty of accessory after the fact?

A. Are you using the phrase "money fraudulently obtained" anonymously?

Q. By false pretense, obtaining money by false pretense?

A. Obtaining money by false pretense?

Q. Yes, I mean that.

A. The similarity does not exist. I will point out the distinction I have in mind. A fraud is a very simple civil proceeding relatively, whereas obtaining money by false pretenses is a very involved crime, both at common law and under the statute, involving to some authorities as many as nine elements and in the literature involving as many as eleven; and as stated by some authors.

Q. What I have in mind, Mr. Marshall, is that assuming the fact, assuming that a property had originally been acquired by means of false pretenses, then couldn't the receiver be tried and convicted as an accessory after the fact where he took the proceeds of that crime and knowing it to have

1251 been so obtained originally if he came within the other elements of the statute relating to accessory after, probably that is true. It is true that one who instituted a scheme whereby he sets in motion the means of perpetrating fraud, and acquires property by means of false pretenses thereafter participates in a division of the spoils might also be guilty of being a conspirator in a conspiracy to defraud. We have a confidence game statute here, it is a great comfort to the prosecutor; it is not true that the shadow in some instances between false pretenses and larceny in almost indefinable and I think that is not my experience. It is true that the false pretense statute says that no man may realize—they use that language in the false pretense statute, they

1252 labor under as I always felt—I always felt they were not clear in their fraud when they were writing it as

to the definition of larceny and of false pretenses and it was necessary I think in that statute. That is my opinion. Whether or not the act does say larceny by trick. Larceny by trick is larceny. False pretense is another thing.

Q. Well, the point is that in larceny by trick the elements might very well be the same as in a false pretense case, except if the one who surrenders the property does not intend to pass title, that is the point, isn't it?

A. That is one of the points.

Q. I say, primarily that is a distinction between the two; in other words that the—if he simply surrenders possession and not the title upon representation of a party after that fraud is guilty of false pretense, also is guilty of larceny by trick, isn't that right?

1253 A. It may be an offense. Felonies are more than criminal; it means criminality and that could be defined as felony, feloniously taken would mean taking as the type that might be called a felony; larceny, stealing, robbery and false pretenses would not come within feloniously taking." Such as feloniously stealing, robbery and false pretenses, that would make that feloniously taking. No, larceny standing alone would not be a false pretense taken alone, would not be feloniously taking, because the statute of Illinois—

Q. I am not speaking of any statute of Illinois.

Mr. Stansbury: That is all the direct examination 1254 was on.

The Witness: Larceny, generally speaking is more than petit. If petit, larceny generally speaking is not a felony. False pretense in Illinois and I know little about it elsewhere,—is a misdemeanor, and it is not a felony, I would say that the use of the word felonious would be "taken" by false pretense and exclude the misdemeanor. False pretense in Illinois is a misdemeanor. In connection with that other question where the Commissioner said it was not in the record, the part of the statute I refer to, I assume 1255 you did too, was this part of the false pretense statute.

Q. No indictment for obtaining of any property or any deed in false pretense or pretenses shall not be quashed nor shall any person indicted for such offense be acquitted for the reason that the facts set forth in the indictment or appearing in evidence may amount to a larceny or other felony; nor shall it be deemed essential to a conviction that the prop-

erty and the goods or things so obtained shall pass with the possession to the person so obtaining it. That is what you had in mind, isn't it?

A. Yes, that is what I had in mind. In this state we likewise have a statute covering larceny by bailee, embezzlement. Larceny by trick is larceny. This was because that might ordinarily be termed "larceny by trick" it would come under the larceny statute of our state.

1256 *Re-direct Examination by Mr. Stansbury.*

Q. I call your attention to Sec. 613, Chap. 38, of Callahan's Illinois Statutes Annotated, Vol. 3—Sec. 4, "Every person not standing in the relation of husband or wife, parent or child, brother or sister, to another who knows the fact that a crime has been committed and conceals it from the magistrate, or who harbors, conceals, maintains or assists any principal, felon or any accessory before the fact and knowing him to be such, shall be deemed an accessory after the fact and shall be punished by imprisonment in the penitentiary for a term of not less than one year and not exceeding two years and fined not exceeding $500. Is there any other statute in the State of Illinois relative to accessory after the fact other than the one that I have just read to you?

A. Not that I know anything about. The intent of the
1257 statute of Illinois relative to accessory after the fact has to do solely with the hiding of the principal or accessory before the fact to the commission of either a felony or misdemeanor.

HON. JOSEPH B. DAVID, a witness on behalf of the respondent, being first duly sworn, testified as follows:

Direct Examination by Mr. Stansbury.

Reside at 5513 Cornell avenue. I am judge of the Superior Court of Cook County, and have been for a little over fifteen years and have been a member of the bar of the State of Illinois since 1885. Prior to the time I became a member of the Superior Court of Cook County, Illinois I had practiced ex-
tensively in the criminal courts of Cook County and in
1258 the criminal courts of the United States as well. Had been in the general practice of the law and during the

time I have been a member of the Superior Court of Cook County I have sat in the Criminal Court of Cook County about one-third of my time. I should say all together about five years. As to whether I have occupied any other official positions in the government of Illinois, I don't know whether you call it official, I was a Special Assistant States Attorney for three weeks under Mr. Deneen when he had twelve courts running to clear up the docket; and I acted as Special Assistant States Attorney under Mr. Smulke handling some city cases and I give that as the extent of my official positions. As to my familiarity with the criminal laws and criminal statutes of the State of Illinois, I am a little bit rusty, having had no occasion to study them in the last fifteen years except as became necessary for the disposition of cases before me.

1259 If there is a statute in the State of Illinois making the receiving of money knowing the same to have been fraudulently obtained a criminal offense in this state, I have never read it and have never heard it.

Q. Is there any decision of the Supreme Court of Illinois wherein it is held that the charge "receiving money knowing the same to have been fraudulently obtained" is a crime in the State of Illinois?

A. I would not want to answer that question because that would assume that I had read every decision, but, I try to keep up with decisions, and I do not recall during my practice of there having ever been such a decision. If there is such a decision of the court I have never seen it.

Q. If there is such a decision of the Appellate Court of Illinois wherein it is held that the charge "receiving money knowing the same to have been fraudulently obtained" have you heard of it?

A. If there is such a decision in the Appellate Court of Illinois wherein it is held that the charge "receiving money knowing the same to have been fraudulently obtained" is a crime in the State of Illinois I never heard of that case; it has never been brought to my attention.

Q. Is the receiving of money knowing the same to have been fraudulently obtained a common law crime in the

1260 State of Illinois?

A. Well, I don't know what you mean, Mr. Stansbury by that question. If it were an offense at common law then it is still an offense under the law of the State of Illinois unless abolished by statute. The common law offense is still

an offense in the State of Illinois such as those that have not been abolished by statute. The offense of being a common scold was an offense at common law and has not been abolished by statute. All offenses which were offenses at common law are offenses under the Illinois law unless abolished by statute.

Q. Now then, did you know of an offense at common law such as "receiving money knowing the same to have been fraudulently obtained?"

A. In none of my reading from Blackstone down to date do I recall any such offense, and I would want to put myself on record to say—I wouldn't want to say there was no such offense; there are certain kind of cheats, but I do not know of any such law.

Q. Have you read the observation of Justice Holmes in the case of *Kelly* v. *Griffin*, reported in 241 U. S. at page 6?

A. I think you asked me to read it and I said I would not.

1261 Q. Will you read it now? This is the case of *Kelly* v. *Griffin*, appearing at page 15, of that volume, starting with the last page, the first sentence in that paragraph, down to "Illinois."

A. I have read it now. This observation with respect to receiving property knowing the same to have been fraudulently obtained, is a crime by the laws of Canada and Illinois, does not correctly state it.

Q. Now does the observation "but the receiving of property knowing the same to have been fraudulently obtained" is a crime by the laws of Canada and Illinois correctly state the law of Illinois?

A. Emphatically not; it does not state the law of Illinois; it is mere dicta. It is not unusual by courts of last resort. I have not read the unpublished opinion of Judge Landis in the case of *Kelly* v. *Griffin*.

(Thereupon Judge Landis' opinion was submitted to Judge David.)

After reading it, he said:

1262 "I have read it."

Q. Does the observation made by Judge Landis that the State of Illinois, the statute against fraudulent offenses would include the charge of receiving money knowing the same to have been fraudulently obtained, accurately state the law of Illinois?

A. It states it inaccurately.

Q. In your opinion would "the receiving of money, knowing the same to have been fraudulently obtained," be an offense punishable under the fraudulent conveyance statute of the State of Illinois?

A. Certainly not.

Q. Is the act of "receiving money knowing the same to have been fraudulently obtained" made a crime by any existing law of the State of Illinois?

A. I answered that before. I think I answered it before.

Q. Then let me ask you this question: Was the act "receiving money, knowing the same to have been fraudulently obtained," ever a crime or criminal offense in the State of Illinois?

A. That is asking me to go back to 1818. I cannot do that. Not that it has ever been called to my attention, and not since the practice of law am I aware of any statute that
1263 ever covered such an offense in the State of Illinois.

Q. In your opinion is there any law in the State of Illinois or statute or decision or common law which makes the substance, essence or ingredients of the offense of receiving money knowing the same to have been fraudulently obtained criminal in this state?

A. With the exception of speaking of common law, what I said before, I never knew of any such offense in the State of Illinois.

Cross-Examination by Mr. Overmyer.

Q. Judge David, of course, as an advocate before the bar we frequently take exceptions to rulings of the Supreme Court, and we endeavor to distinguish them or say they are erroneous, that is correct, isn't it?

A. No, I wouldn't put it that way.

Q. Well, then, for a greater reason then, Judge David, isn't it true that a position of that kind is absolutely
1264 binding upon the court?

A. It is not and I will give you the reason if you want it. I had an extradition case before me some ten years ago. It comes under the act of Congress, interstate extradition, and one of the questions involved was whether or not a man could be extradited from the State of Illinois to the State of Colorado, on an information, and I held—I don't know whether Mr. Wilson was in the case or not, but one

of the habeas corpus experts and I held, extraordinary as it appeared, and somewhat to the disgrace of Congress, that you could not extradite him from one state to another on an information. What I meant by "an information" was not a proceeding filed as they filed them in the Municipal Court of Chicago or in the Federal Court, not as an examining magistrate, but a court having final jurisdiction. Counsel for the Attorney General from Colorado gave me a decision and said: "You are all wrong on this because the Supreme Court of the
1265 United States has spoken on that." And he cited me a decision and an opinion written by Justice Brown in which this language occurred and of course the question was not before them. He said, "No one can doubt that a man can be extradited on an information," but strange as it may seem that opinion that no one can doubt it, the District Court of Appeals in the State of Texas had rendered a decision, a very elaborate opinion written very painstakingly where a man was directly before them and the question before them that a man could not be extradited from one state to another and Judge Brown said, "No one can doubt it." But there has been doubt. Ten years before—courts of last resort, even use the expression that they are bound to explain and there is just the reason for this decision of Judge DeYoung in explaining this Preston case where the man was executed and he had to go on and he explained what he meant by the Eugene Geary case. There the decision was not binding, nor was it dicta. The question was not before it but I should use the expression dicta where the court goes out of its way to blow off steam and say something that has nothing to do with
1266 the case. I did not read the entire opinion in *Kelly* v. *Griffin*. I said that the finding of the Supreme Court is not binding when it is dicta. I mean by that I do not think that the Supreme Court decision would be binding by their own language. If a question is not before them it is not binding, and it was not necessary for the decision of the case but simply an expression of opinion which is often done and frequently done. I do not think the Supreme Court of the United States, or any court of last resort would expect their language to be binding. That is what I mean. I don't think any court of last resort would speak of it that way.

Mr. Overmyer: Assuming that it was an essential element and they directly passed upon it in order to comply with what may or may not be—well, we will say it is an essential element

to extradition that the offense be criminal in this state and assuming that they have passed upon it then it is a binding decision until they themselves reverse it.

A. I think that decision of the Supreme Court of the United States of an intentional extradition is binding on every court in the United States; I don't think there is any doubt about that. We may think it is wrong but we have got to follow it; although I don't think their decisions are binding on the interstate extraditions at all, because as the act of Congress has on interstate extraditions vested the courts of
the different states with power to pass on these ques-
1268 tions. The decision of the United States Supreme Court
is only binding upon the Federal Court.

Q. In connection with the illustrative case you mentioned didn't you base your decision on the fact that the information as gotten out or as a sworn information—

A. No, that is not the question.

Q. That has nothing to do with it?

A. No, the question involved is as you will notice the act of Congress—and I spoke twenty years before the State Bar Association that you could not get any legislation passed that was disgraceful where the act of Congress provides that they must lay before the executive a copy of the indictment or affidavit and that word "affidavit" has been construed to be a proceeding before a committing magistrate for the purpose of arresting and holding to bail. The word "information" was not used and the act of Congress has left a void there, and it has been that way since 1904. You cannot extradite a man on information, that is why you cannot get a man if a
contest is made from Chicago to Milwaukee. You can-
1269 not get him unless you have a proceeding. They know
that and they go before a committing magistrate and they do not file an information in Milwaukee County. They do not have a grand jury and did not have a grand jury for ten years, although it has a right to it. When they want to extradite a man to Wisconsin, they don't do it on information. They do it by going before a committing magistrate and that is the way they do it; which of course, is a joke.

Q. Well, assuming that a man counsels and advises in the conveyance of—put it this way: "Assuming that a man counsels and advises in the offense of obtaining money by false pretense prior to its commisison—"

A. Will you pardon me for just a moment?

Q. Yes.

A. There is no such offense. I have used that word used here; there is no such offense in the State of Illinois as obtaining money by false pretense. The offense is simply like a lot of other offenses; the offense has no name; we give it that name and they have no name. It says, "whoever does certain things shall be fined and imprisoned." If you look at the statute you will find "whoever obtains money by false pretense"—not "shall be guilty of obtaining money by false pretenses," that is one of the elements which has no name.

So, if you find the man guilty of receiving stolen property
1270 in manner and form charged in the indictment your verdict is of no value; they use those words.

Q. Using it in that way, so as to convey what is included in our false pretense statute, assume then further, that hereafter a man participates in the money that is obtained, clearly he could be tried and found guilty in Illinois couldn't he?

A. I don't think so. On the contrary, he would be found guilty of what?

Q. Well, the prinicpal obtaining money under false pretenses?

A. You mean obtaining the loot?

Q. I said prior to the committing of this, prior to the obtaining of the money he counsels and advises and perpetrates the crime?

A. I think that is possible, although I never knew a man to be guilty of obtaining money by false pretenses.

Q. Well, he is likewise guilty of conspiracy, isn't he?

A. That is a different proposition. That is a part of the conspiracy statute.

Q. So that under that statute it is not necessary that a conspirator shall actually be present and obtain the money himself?

1271 A. Certainly not. Under the conspiracy statute, I am not willing to consent to the proposal or to accede to it that there is no such thing as accessory to obtaining money by false pretenses, and I can give you a reason.

Q. Well, the statute was, any one who aids or assists and abets prior to the commission—

A. I understand, but you have to read that intelligently in order to make a man accessory—we use the expression as the Supreme Court has used it—the right expression, "accessory to the fact," that is a better expression. Sometimes we use

"accessory before" but in order to do that a man would have to remember a whole lot of things. For instance, as to robberies, now as to representations, you cannot simply say you know when a man goes out and advises a man to steal a watch, that is easy; but when a man advises a man to obtain money by false pretenses, that is an entirely different situation.

1272 I never knew of anybody being convicted in this state of obtaining money by false pretenses.

Q. Likewise, then a man under those circumstances could be guilty under the confidence game statute, couldn't he?

A. He could not.

Q. For that participation in the crime?

A. He could not.

Q. A man in this state may be perfectly safe in advising another man saying to him, "Go out and we will misrepresent the facts. I cannot tell you what to misrepresent, but misrepresent the facts regarding this fact. Do not stick to the truth." We will limit it to that. Thereafter he gets the money. Is that a crime?

A. I will not answer that. I say I never knew of a man to be accessory to obtaining money by false pretenses, because there is supposed to be an individual act. It is supposed to be something that is done by the person himself because he talks. That is a different thing.

1273 Q. You would not say, would you, dogmatically that under the Illinois law such a man would not be guilty?

A. I wouldn't want to say that it could not be done but certainly it is not a confidence game. The Supreme Court has wobbled so often on the difference between obtaining money by false pretenses and a confidence game, that when we judges sit over in the criminal court on a confidence game and that case comes up before us we wonder why there was not a count in the indictment of obtaining money by false pretenses. There is a very late case in this state and I think you will find it in the second advance sheets back, and in that they have held the gist of the offense is the confidence, but, don't forget there is no such thing as a confidence game in common law. There might have been a cheat, but the confidence game, as I understand it thirty or forty years ago was when a man went out and sold another man bogus stock or a gold brick or the like of that, the old shell game; and our Supreme Courts reversed twenty-five convictions of obtaining money by confidence game because they said if anything it

was obtaining money by false pretenses, so that I defy any man to draw the line of demarcation between a confidence game and obtaining money by false pretenses, unless it was one of the cases of the old kind such as the shell game, or the lock game, the fellow who finds the gold brick.

1274 Q. Judge, as an accessory after the fact, you know of no adjudication of the fact that a man can or cannot be guilty of accessory after the fact, who received money knowing it to be obtained in violation of this section of the false pretense law of our state?

A. My dear sir, the statute we have in Illinois is a joke; it is not the statute; the accessory after the fact under our statute is nothing more or less than an attempt to prevent some one from secreting a criminal or prevent the authorities from knowing. In other words, it is your duty if you know a crime has been committed and you conceal it from the magistrate, then you are an accessory after the fact, non-constad. It is not your duty to go to the magistrate and tell him about it; nobody has ever said it was. That is the language for concealing it from the magistrate. It probably means when he is confronted by the magistrate, and he doesn't give the information after the fact; and nobody knows what it means. If you hide the body, or if you conceal the criminal. The Statute gives you the whole thing. A man is not an accessory after the fact who receives money, that is, the man who robs a bank and gets a part of the loot, he is not guilty of robbery, but he is guilty of receiving stolen property. In other words, a man in our Illinois law has a perfect right to receive the loot from the thief and it does not make him a thief; it ought to. There is a hiatus in the law, and I do not see why a man should not be just as guilty of receiving stolen money,

1277 as obtaining by false pretenses, or in a confidence game.

I do not know of any reason, but that is a matter for the legislature. If we tried to correct all of the legislative ills we would have our hands full, because we see them every day.

Q. Has any court in the state adjudicated that a man receiving property which he knew was obtained by false pretense, and criminally obtained under that section of the statute of this state, whether such a man has ever been tried and found guilty or not guilty, as accessory after the fact?

The Commissioner: The question was, do you know whether there has been any adjudication either for or against the proposition?

A. Why, the only thing I can answer is I never heard of such a fool thing but there might be.

1276 Mr. Overmyer: That was a sort of a fool thing of Judge Landis putting in there, saying the fraudulent conveyance statute covered such a situation?

A. I will not say that, but he was a Federal judge and he might have followed what the language of the Supreme Court was even if it were dicta. I wouldn't pay any attention to it, but if somebody read a decision of the Supreme Court of Illinois whose decisions are binding on me, I would pay attention to it. I have got to follow the decisions of the court of last resort, even if I do not agree with them. Otherwise you would have anarchy.

1278 The Witness: May I explain one thing further?

Mr. Stansbury: Yes.

The Witness: Out of respect to the government and out of respect to the court, I want it understood I am not a voluntary witness. I do not believe in judges being witnesses unless they are witnesses to a fact. Mr. Stansbury, whom I have known for a great many years, and respect, came to me and told me—and I told him I would not be a witness voluntarily, that I was the same as any other citizen, and if he wanted to have me as a witness he must subpoena me, which he did; and I have the subpoena in my pocket.

Mr. Overmyer: We sort of understood from Mr. Marshall and the others that you were all subpoenaed.

A. I did not know what he was going to ask me and I refused to discuss any case with him, and I refused to read the case that he handed to me, and I didn't read it. I want it understood that I am here simply because I have been properly subpoenaed by a court that has a right to my presence. I am personally opposed to judges being witnesses, in any court. Let them attend to their judicial work.

EDWARD T. WILSON, a witness on behalf of Respondent, being first duly sworn, testified as follows:

Direct Examination by Mr. Stansbury.

1279 Live at 4938 South Michigan Avenue. Am a lawyer admitted to practice in November, 1897. Admitted to the bar at Ottawa. I am an assistant state's attorney of Cook County and have been for nineteen years in September. During that

period of nineteen years I have been state's attorney of Cook County and my duties have been mostly writing briefs for the people for the Supreme Court in criminal cases. I am familiar with the criminal statute and criminal laws of the State of Illinois. There is no statute in the State of Illinois making the receiving of money knowing the same to have been
1281 fraudulently obtained a criminal offense in this state. As far as I can find there is no decision of the Supreme Court of the State of Illinois wherein it is held that the charge of "receiving money knowing the same fraudulently to have been obtained" is a criminal offense under the State of Illinois, and as far as I have been able to find there is no decision of the Appellate Court of the State of Illinois wherein it is held that a charge of "receiving money knowing the same fraudulently to have been obtained" is a criminal offense, under the laws of Illinois.

Q. Has receiving money, knowing the same to be fraudulently obtained, ever been a common law crime in the State of Illinois?

A. No, it was not. So far as I have been able to find it was not a crime of common law; there was no statute in Illinois that makes it a crime and it could not be a crime here. I have read the observation of Justice Holmes in the case of *Kelly* v. *Griffin,* reported in 241 U. S., page 6.

Q. I call your attention to the observation of Justice Holmes in the case appearing as a part of the first sentence on page 15 in that volume.

A. Yes, I have read it.

Q. Now, after you read it, Mr. Wilson, will you tell us whether in his observation, "but the receiving property knowing the same fraudulently to have been obtained, is a crime under the laws of Canada and Illinois, correctly states the law of the State of Illinois?

A. It does not. I have read the unpublished opinion of Judge Landis in the case of *Kelly* v. *Griffin.*

Q. Does the observation made by Judge Landis that the statutes of the State of Illinois against fraudulent conveyances would include the charge of receiving money knowing the same fraudulently to have been obtained, accurately state the law of the State of Illinois?

A. It does not.

Q. In other words, would "receiving money knowing the

same to have been obtained be an offense punishable under the fraudulent conveyance statute of the state of Illinois?

A. I don't think so.

1283 Q. Is the act of receiving money knowing the same to have been fraudulently made a criminal offense by any existing law of the State of Illinois?

A. I think I have answered that. I don't think there is any such law on the statute books.

Q. So, the "receiving of money knowing the same to have been fraudulently obtained, was that ever a criminal offense in the State of Ilinois?

A. I don't know whether it was ever an offense but it has not been since I have been acquainted with the law. In my opinion there is no law in the State of Illinois either by statute decision or common law which makes the substance or essence of, or criminal ingredients of offenses of receiving money knowing the same fraudulently to have been obtained, criminal in this state.

Q. Now, I ask you this question: In your opinion, is the receiving of money knowing the same fraudulently to have been obtained, could that be an offense punishable under the fraudulent conveyance statute of this state, to which you responded, "I don't think so," do you want the court to understand by that answer that in your opinion "receiving money, knowing the same fraudulently to have been obtained," cannot be a crime under the fraudulent conveyance statute of the State of Illinois?

1284 A. That was my opinion.

Cross-Examination by Mr. Overmyer.

Q. Were you subpoenaed?

A. I was subpoenaed just the same as the others. The fraudulent statute covers all the parties to such a transaction.

Q. Well, all parties, by that the receiver would be covered, wouldn't he?

A. He would not be one of the parties that had anything to do with the conveying. I think not.

Q. So you base your interpretation of the fact that you do not think the one to whom the property had been conveyed is covered by the statute—

A. I don't think it is, I don't think it is covered by the 1285 statute. Yes, undoubtedly he is one of the parties covered by the statute. He is one of the parties covered by

the statute. You asked me before about the man who received it from somebody who had got it fraudulently.

Q. Well, as to this then the one who got it fraudulently for the purpose of defeating damage claims to recover it in turn, conveys it, that makes him the receiver directly within the statute?

A. I should think so.

Q. The statute for the record, that you and I have in mind is this: Section 294, Chap. 38, Callahan's Illinois Annotated Statute, which reads: "Every person who shall be a party to any fraudulent conveyance of lands, tenements, hereditaments, goods or chattels, or any right or interest issuing out of the same or to any bond, suit, judgment or execution, contract or conveyance, had, made or contrived, with intent to defraud and deceive others, or to defeat, hinder or delay creditors or others of their just debts, damages or demands; or who, being a party as aforesaid shall at any time willingly put in issue avow, maintain, justify or defend the same in fact as true and done, or shall sell, alien or assign any of the amounts, lands, tenements, hereditaments, goods chattels or other things before mentioned to him conveyed as aforesaid or any part thereof, shall be fined not exceeding a thousand dollars. That is the statute that we have in mind I assume?

A. Yes.

Q. Now, Mr. Wilson, do you know of any decision which says that one who receives money which he knows has been fraudulently obtained, cannot be guilty as an accessory after the fact?

A. No, I do not know of any such decision.

Q. As matter of fact, at common law there are adjudicated cases that such a man can be guilty as an accessory after the fact for stolen property?

Mr. Gilbert: I object to that as not being the question.

The Commissioner: He may answer.

A. The receiving of stolen property that is a felony
1287 as a rule, I think it is; the man would be an accessory after the fact if he helped to sell it or anything of that sort; that is the principal thing, helping to get the criminal away, so that he could not be punished.

1288 Q. Where a man prior to obtaining money by fraudulent pretense counsels and advises the perpetration of the crime and thereafter participates in the spoils he is a principal?

A. He is an accessory before the fact and may be guilty as principal. He likewise could be indicted as a conspirator and undoubtedly in conspiracy to defraud.

Q. Now, Mr. Wilson, the question as propounded by Mr. Stansbury said something about the essential ingredients of the receiving of money knowing the same fraudulently to have been obtained. Just what did you have in mind when you were saying the receiving of money, did you know as to fraudulently obtained is not a criminal offense?

A. I say there is no statute in Illinois that makes it criminal and as far as I know there never was a prosecution in Illinois for that crime.

Q. Not necessarily in so many words, but such acts and other words, don't we sort of understand that the concealing
of the property might make him an accessory after the
1289 fact? That is not receiving stolen property; that is
what you are asking me about; that is made a substantive offense.

Q. I mean likewise as an accessory where he sells the property, where he takes it, conveys it, and then he helps to convey it out of the country where it was detained, can he be guilty as an accessory after the fact of obtaining money by false pretenses?

A. I very much doubt that. That is only my opinion.

Q. Assuming further that when the ingredients of that crime so described show that he obtained it, knowing it to have been fraudulently obtained, now suppose in the acquisition of the knowledge or rather, in the acquisition of the knowledge prior to the commission of the crime, he aids and abets, then he is guilty as a principal?

A. Yes, guilty as a principal and as you have stated, he might be held as a conspirator.

Q. Now then when you say in answer to Mr. Stans-
1290 bury's question that the receiving of money knowing it
to have been fraudulently obtained is not a criminal offense, just what did you have in mind, how many facts. What facts did you say that he might have, what guilty knowledge do you say that he might have and still not be criminal?

A. Well, if a man knew that the property had been fraudulently gotten from another man and he received it from the man who fraudulently got it there would be no offense in Illinois that you could prosecute him for. That is what I mean to say, if I make myself plain.

Q. That is what I wanted to have in mind; you don't know whether he could be convicted as an accessory after the fact and you are not prepared to say?

A. I don't think he could.

Q. As a matter of fact, you are not sure whether he could or not?

A. No, because there are no decisions on it. The
1291 essence of the crime which Mr. Stansbury has described—

Q. The essence of the crime which Mr. Stansbury has described and which you have in mind embraces knowledge by the receiver and acquired after the crime has been committed, when he simply learns for the first time that the property has been fraudulently obtained.

A. I should think if he knew somebody was obtaining property fraudulently and did not participate, but just stood by and afterward received it, there would not be any offense that he could be prosecuted for in Illinois. In other words, if he simply knows of the plot prior to its completion, and does not participate in it, then he would be free. If he participates, it comes within that question of accessory before the fact, and guilty as a principal or conspirator.

Re-direct Examination by Mr. Stansbury.

1292 Q. The statute is: "Every party to any fraudulent offense, to any fraudulent conveyance of any lands, tenements, hereditaments, goods or chattels, or any right or interest issuing out of the same," and so forth, "shall be punishable." Do you not have in mind in your construction of that statute that the offense must have been made, and the conveyance must have been had out of the possession of one lawfully entitled to do it?

A. Undoubtedly.

Mr. Stansbury: I was just about to ask you that. You hand me a certified copy of the statute and you ask me whether there is any mention made in the statute of money. There is no mention of money made there in this statute, but it appears that the statute is intended to prevent defrauding of creditors.

I offer in evidence as Respondent's Exhibit A, of this date, the document and ask it to be incorporated in the record.

Mr. Overmyer: I have no objection.

The Commissioner: Very well.

(Thereupon said statute was marked Respondent's Exhibit A—10/16/31, and was offered and received in evidence.)

Cross-Examination by Mr. Overmyer.

1294 Q. That opinion, the language said, whose creditors, we will say machinery or any other sort of a thing, immediately sells it and transfers his property to another and defeat and defraud the owners from whom he got the implements or machinery or the like, the receiver of any such goods would be guilty, wouldn't he, under this statute?

A. Yes, if he had knowledge.

Q. So, in other words, the identical language there is it does not have to pass from the creditor through to the receiver because this statute embraces just such a situation as that when the owner originally acquired it, gets rid of it, and maybe changes the character of it and then takes the proceeds to avoid the claims for damages or to defeat and defraud his creditors.

A. Defeating and defrauding creditors would be the principal thing there, in my judgment.

Q. Where in the other case it is directed against the conveyance of property and all parties to the transaction are bound.

A. That would depend; the receiving of property that has been fraudulenty obtained, as I stated before, is not an

1297 offense as far as Illinois is concerned.

Q. But, suppose it is received with the idea of defeating and defrauding creditors, or defeating them in a claim for damages, then it is a fraud clearly, is it not?

A. If he were a party to the transaction under that fact he would be guilty.

Q. So the essential ingredients are the same, and in the first instance the receiving of the property whereas in the other case it is directed against the conveyance of the property for the purpose of defeating and defrauding creditors and preventing claims for damages, isn't that correct? And where he knows that it has been fraudulently obtained that way and receives it for the purpose of defeating claims for damages, which he knows exist against the one from whom he receives it.

A. Well, under that statute he might be guilty but you would have an awful time proving it.

Mr. Overmyer: I move to strike that out as that is a matter where you may be right or wrong.

The Commissioner: Well, it would be different there, a different offense from that with which he is charged?

A. Yes.

Mr. Overmyer: Well, they are two essential differences, aren't they?

A. The one word sometimes gets a reversal in the Supreme Court.

PAUL SAMUELL, witness called on behalf of the respondent, being first duly sworn, testified as follows:

Direct Examination by Mr. Gilbert.

1299 Reside at Jacksonville, Illinois; I am an Ex-Justice of the Supreme Court of the State of Illinois; I was admitted to practice in Illinois in 1910, Springfield. Before going on the Supreme Court Bench of the State of Illinois, I was an active practitioner at the bar; I am generally familiar with the statute and laws of the State of Illinois. I was subpoenaed here as a witness. You asked me this morning to look at the complaint filed in this case; I looked at it and read it and am familiar with what is in it. To the best of my knowledge there is no statute in the State of Illinois making the receiving of money knowing the same fraudulently to have been obtained a criminal offense in this state. I know of no statute and no decision of the Supreme Court holding
1300 that receiving money knowing the same to have been fraudulently obtained is a crime in the State of Illinois; and I believe I would know of such a decision if one existed. I know of no decision of the Appellate Court of the State of Illinois wherein it is held that the charge of receiving money knowing the same to have been fraudulently obtained is a crime in the State of Illinois, and I believe I would know it if it existed. The receiving of money knowing the same to have been fraudulently obtained is not a crime at common law; as to what the common law crimes are it is my understanding that the common law crimes are defined by the section of the statute under the heading "Common Law;" I think it is
1300 chapter 28 of the Illinois Revised Statutes and I think that the only laws that were crimes, at common law are those which were crimes before the time fixed in the Statute of James I 1606.

Q. So that the receiving of property of any kind, whether it be stolen or obtained by burglary larceny robbery false pre-

tense or anything else, that is, the receiving of it, was not a crime at common law, in your opinion?

A. It was my understanding it was not such a crime; that is my opinion. I am familiar with the statute of the State of Illinois against receiving certain types of property and making it a crime. I am familiar with it. As I recall
1302 it the crimes mentioned in the statute which make it a crime to receive the proceeds thereof are burglary larceny and robbery; and none others that I recall. I have read the observation of Mr. Justice Holmes in the case of *Kelly* v. *Griffin*, in 241 U. S. at page 6. I have read it with a great deal of interest. The observation of Justice Holmes "but the receiving of property knowing the same to have been fraudulently obtained is a crime by the laws of Canada and Illinois," in my opinion most certainly does not state the correct rule of law in the State of Illinois. I have read the whole of that opinion.

Q. Is that, in your opinion as an ex-Justice of the Supreme Court of Illinois, that observation to which I have referred, dicta or an essential ingredient to the decision of that case?

A. Now, with all due deference, your Honor, to the renown of Justice Holmes, and with all due respect to him, I think that statement is purely *oberta dicta*.

Q. Will you give us your opinion as an ex-Justice of the Supreme Court of Illinois and as a lawyer as to the duties of the court to follow that which is clearly *dicta* in the reported cases from the Supreme Court of the United States?

A. Well, naturally that which is *oberta dictum* should not be followed. I think most any jurist would readily admit that. From the reading of the decision in the case of *Kelly* v. *Griffin*, I think it was most assuredly not necessary to say anything about discharge to reach a decision in that matter. There were four, as I recall either three or four points in the
1304 *Kelly* v. *Griffin case*, and one was the count of embezzlement, false pretense.

Mr. Gilbert: And perjury.

A. And perjury. Possibly there was another and finally, reception of property known to be fraudulently obtained. And I read the decision of Justice Holmes and he clearly states that there is an allegation of perjury and embezzlement which would warrant the holding of the defendant in this case, and I think that even Justice Holmes was apologetic with reference to the statement when he said that "receiving property

known to be fraudulently obtained was a crime by the laws of both Canada and Illinois:" even the language which follows that says: "There may be a doubt whether the felon, if a party to the fraud, received the money of the government directly from it; in any event it clearly demonstrates to me that the Justice held that the first two or three charges were quite sufficient and that the other or last charge—he makes some comment on it, purely for good measure; it is a misfortune so many times in rendering decisions by the higher courts. In that way they misstate the law of Illinois, and
1305 my judgment I should like if you will allow me, to enlarge a little upon that. Justice Holmes himself might just as properly have said that black is white, under the laws of the State of Illinois and Canada. There is no citation to the assertion just made and I should like, with a great deal of interest, to say if he would be called upon to make an interpretation of that statement, I would like to hear it. I have read the unpublished opinion of Judge Landis in the same case, *Kelly* v. *Griffin;* and in my humble judgment the observation made by Judge Landis that the statute of Illinois against fraudulent conveyances would include the charge of receiving money knowing the same to have been fraudulently obtained, does not accurately state the law of the State
1306 of Illinois. So I state—

Q. Is it not your opinion that the fraudulent conveyance act of the State of Illinois was directed against persons who sought to convey that which was fair in the way of property for the purpose of defrauding creditors?

A. Yes.

Q. Then it presupposed that the property conveyed was the property of the conveyor?

A. In my opinion the receiving of money knowing the same to have been fraudulently obtained would not be punishable as an offense under the fraudulent conveyance statute of the State of Illinois. The act of receiving money knowing the same to have been fraudulently obtained is not made a crime by any existing law of the State of Illinois that I know of. The act of receiving money knowing the same to have been
1307 fraudulently obtained has never been a criminal offense in the State of Illinois to my knowledge; there is no law in the State of Illinois, either by statute decision or common law, which makes the substance, essence or ingredients of the offense of reciving money knowing the same to have been fraudulently obtained, a crime in the State of Illinois.

Cross-Examination by Mr. Overmyer.

I think the dicta of Judge Holmes, which I have referred to, can be explained and defined by one of the leading cases of the United States written by Chief Justice Marshall,
1308 in the case of Cohens *vs.* Virginia, decided by Chief Justice Marshall approximately in the year 1800, which is a case which is studied by practically all law students of the United States. Chief Justice Marshall had incorporated some *obiter dictum* in the likewise famous case of Marbury *vs.* Madison. Justice Marshall in the Cohens *vs.* Virginia case
1309 had said, "It is an axiom not to be disregarded that general expressions in every opinion are to be taken in connection with the case in which these expressions are used. If they go beyond the case, they may be received but ought not to control the judgment in a subsequently put case when the very point is presented." You will find that language in 6th Wheaton, at page 399. Likewise, the United States Supreme Court in the case of U. S. *vs.* County of Clark in the 96th U. S. at page 211, said: "This was the only question before the court and the decision is there only to the extent of the case before it. If more was intended by the judge who delivered the opinion, it was purely obiter." I likewise might cite you the expression of Lord Mansfield of the British court in which he referred to some *obiter dictum* of Lord Holt in which case he said: "This dictum of Lord Holt's is in form decisive resolution, not adjudication, no previous or deliberate determination." And then, after citing certain cases, he stated this:

"Therefore this mere *obiter dictum* ought not to weigh
1310 against the settled direct authority of the cases which have been deliberately and upon argument determined the other way." I interpret the expression of Justice Holmes as not essential to a decision of that case, for the reason that Justice Holmes in that opinion held that the charge against the defendants on a question of perjury as well as embezzlement was quite sufficient. Well, whatever the charges were, let me have the opinion for a moment.

Q. Don't you understand, Judge Samuell, that the Canadian Government demanded Kelly on three different charges, perjury, false pretense, receiving money knowing it to have been fraudulently obtained?

A. Yes, I knew there were three or four points. Three different points.

Q. And it was essential in the decision of the third that he should determine what the Illinois law was, wasn't it?

A. On the contrary, it was not essential in that de-
1311 cision. I think there was nothing contained within the pages of this opinion that said that the Canadian Government insisted on the man being extradited on the three charges. I saw the complaint which says that the extradition proceedings were started, and I understand in international extradition that the man must be surrendered for the crime with which he is charged. Otherwise they cannot try him on that. It was not essential for them to pass on that in view of his holding that the other crimes were quite a sufficient charge.

Q. You do understand, though, that he was surrendered for those two only, he could not have been tried for receiving money, knowing the same to have been fraudulently obtained, could he?

A. You cannot get me to answer categorically yes
1312 or no, counsel, because you framed the question in such a way it would be unfair to have an answer in that form.

Q. You can understand, can't you, a man could not possibly have been tried for any crime except that for which he was surrendered, and if there are three charges, this government must agree to his surrender on all three? You understand that?

A. Yes, I understand that thoroughly, counsel. But in explanation of that, he may have been charged with fifty offenses, and if he was found guilty on any one of the fifty, it would have been quite sufficient, and the court so held, or surrendered on that charge only. The Canadian Government insisted on his extradition on all three, but the discussion, counsel, of course, I am sure you will recognize the construction and the interpretation of opinions, that an extended opinion of the United States Supreme Court, or the Supreme Court of Illinois, must have some logic to it; there must be some citation, and I call your attention to this case of Kelly vs. Griffin, wherein the question of perjury and embezzle-
1313 ment that Justice Holmes has given citations supporting that. But on the contrary in his throwing in, as I say, for good meaure, this other, he simply says that the receiving of goods which were obtained by fraudulent pretenses, or by fraudulent conveyance, or whatever the language is, is not supported by a single citation. There is no section of the stat-

ute to which he refers, and we will be left in the dark as much as could possibly be. Among lawyers and judges in the United States, there is no court over the Supreme Court.

Q. When they state that is the law, it is the law until they reverse it? If they have stated it as law on an indispensable point, is that so?

A. Oh, not necessarily, counsel, not necessarily.

Q. As a judge would you have reversed the Supreme Court in a matter of international concern?

Mr. Gilbert: I object to that.

The Witness: Yes, indeed, if I had no more authority than their purely saying that there was such a crime in the
1314 State of Illinois. I think it would be very presumptuous on my part.

Q. If Judge Fitzhenry said it would be presumption for any inferior court or tribunal to decide to the contrary, not in an ordinary matter, but a matter affecting the amicable relations of two of the greatest nations in the world, would you say that was an improper observation?

A. Justice Fitzhenry, of course, and I believe any other learned judge, and I think we have learned judges in this country, base that on the premises, sir, that there is no *obiter dictum* in the opinion.

1315 Q. Judge Samuell, it was sought to secure a writ of habeas corpus on the ground that Mr. Factor was charged with an offense which was not criminal in Illinois, as being an essential element to his extraditability, and Judge Fitzhenry, in hearing that petition struck it because he said, irrespective of his own opinion, the Supreme Court had passed on the exact situation in Kelly *vs.* Griffin. Would you say that this is improper and an incorrect observation on the part of Judge Fitzhenry?

A. I would diametrically disagree with my very, very
1317 profound friend, Judge Fitzhenry. That very opinion that is rendered by the higher courts as a fundamental,
1318 a very fundamental proposition to discuss, and in the framing of opinions a judge very frequently will incorporate some statement into his opinion that he very much regrets as time goes on. That is general, not only because no opinion is a model, but you cannot take one statement in its abstract form written by any judge, be he John Marshall or any other judge, and take that to be the cold naked law. Nor can you say it is incorrect law. Every opinion must have

some logic to it. And, likewise, the fundamental premises must be built up to form—in order to arrive at a conclusion. If it were an essential ingredient that he should decide what the Illinois law was, it would no longer be dicta. But to that extent it would be controlling until it was reversed by
1319 the Supreme Court. But I think at the same time that it was quite important that in all the years since the particular decision has been rendered, that if it was the correct rule of law, that certainly it would be affirmed in some other decision. I recognize that there are comparatively few extradition cases that come to the Supreme Court. I do not know how many of them there are.

Q. When you say that Judge Landis was incorrect in his conclusion, have you got in mind that he says, "I have not the slightest doubt that if the evidence disclosed in this record as to what took place there in connection with the getting of this money was put before the court in support of an indictment appropriately drawn under that section that the court would be required to refuse a verdict of not guilty?" Have you in mind all the evidence the record disclosed?

A. No, I have not. I never saw the record. I haven't any idea what the facts were in that case. The question
1320 is, did Judge Landis correctly state the law of Illinois? In other words, it had attached to it whether or not that
1321 law was correctly stated, and would govern or obtain in a case where there was the reception of property
1322 known to have been fraudulently obtained. I have referred to this little excerpt of Judge Landis' decision, but I also applied the provision that when it obtained to the question of property known to have been fraudulently obtained.

Q. What would you say if a man prior to the perpetration of a fraud knew that a fraud was going to take place, the property was going to be obtained by means of false pretenses, and that subsequently the crime was successful to the one who knew of it but did not participate in it thereafter participated in the spoils, are you prepared to say that that does not come under the fraudulent conveyance statute?

A. Yes, I am so prepared to say that it does not, because your question, sir, does not incorporate all the elements of any particular statute by which we are governed here in Illinois.

Q. Well, doesn't it, for this reason: The property is re-

ceived fraudulently when it is conveyed to the final receiver, it is done so with the reasonable inference that it is done to defeat the claims of those who were defrauded. Under those circumstances, is not the ultimate receiver one of the parties to this statute which says that every person who is a party to the transfer of any propery for the purpose of defeating creditors or to defeat damages shall be guilty?

A. Of course, counsel, your question is quite long and involved. It certainly involves a very abstract situation.

The Commissioner: Mr. Overmyer, your question suggests a reconveyance, doesn't it?

Mr. Overmyer: Yes, sir.

The Commissioner: Fraudulent conveyance and reconveyance?

Mr. Overmyer: Yes.

The Commissioner: You are seeking to ask if the respondent on the reconveyance is involved?

Mr. Overmyer: Yes.

1324 The Witness: Maybe I can best answer the question in this way. I do not believe, counsel, that you will ever find that there is a decision, a criminal decision in the State of Illinois which either upholds or abrogates that particular section of the statute. I might say that I think it is one of the obsolete statutes of our state. I have never known of a criminal case that has ever been brought under that statute. I strongly suspect that if that section of the statute were ever brought before the Supreme Court of this state, that there would be every ground for holding that it is invalid, because of its indefiniteness. However, there is an additional reason why the particular discussion of the point, that is to say, whether the reception of property known to have been
1325 fraudulently obtained is a crime under the fraudulent statute act. It would not apply for the reason that the statute does not even mentioned money, sterling or the things which are incorporated within this original complaint.

1326 Q. Are you acquainted with the case of First National Bank *vs.* Sanford, wherein it was said that the payment by husband to wife, which was designed to secure same to his own use and defraud creditors came within the above provision?

A. That was a civil case.

Q. Put it this way: Do you mean to say, then, that if I acquired machinery and at once sold it, or turned over the

proceeds to somebody who realized that I am turning it over to him so I can defeat the claim of the machinery company, would you say that because the receiver got the money and got the machinery that he would not come within the statute?

A. That would be governed entirely by one of the criminal statutes of the State of Illinois. Your question is so abstract it could not possibly be answered, I very seriously doubt, but you must remember that there are different kinds of fraud in this state. There is a degree of fraud that in civil practice will allow the recovery of the property itself, or the money, the value of it, and it does not pertain to crime whatsoever. There are fraudulent conveyances of property that is made in this state, and every other state, year in and year out, day in and day out, but the test is whether it is a crime. It is your assertion that this makes it a crime. I disagree with you.

Q. Is not the statute clear if I get machinery, sell it immediately and turn the proceeds over to somebody else who knows I am doing it for the purpose of defeating the machinery company's claim, that that person is within the sec-
1327 tion of the statute?

A. Absolutely not.

Q. Why not? If I acquire machinery, it remains unpaid for, I sell it and turn the money over to Mr. Stansbury; Mr. Stansbury realizes I am turning it over to him for the purpose of defeating the machinery company's claim against me, is he free from the provisions of this section of the statute?

A. Yes, entirely, and I should blush to say otherwise, and I should think you would. Why, for the simple reason, because you buy property and do not pay for it, does not necessarily imply that you fraudulently obtained it.

Q. The point is, Judge, the statute here does embrace every conveyance, whether it is with reference to the property obtained from the creditors, or any other property that the man has. Isn't that true, so long as he conveys it with the view of defeating claims for damages, is that right?

A. Yes. This section of the statute embraces every conveyance by a person, who is characterized for the purpose of that conveyance as to defeating and defrauding them.

Q. Where it says that it includes conveyances for the purpose of in effect defeating others of their just debts, damages or demands, it embraces cases where the property conveyed belongs solely to the conveyor, and where the one who had

the claim for damages had in the specific property no interest whatever, doesn't it?

1329 A. Now, are you through with that question? I will answer it as best I can. You have confused entirely the difference between a fraudulent transaction in civil law and a fraudulent transaction in criminal law. You were reading the criminal statute, but won't you concede that there is a difference between fraud in civil law and fraud in criminal law?

Q. The property that the man conveys need not be
1330 property coming to him as the result of the transaction in which the creditor is to be defeated?

A. Oh, I think the interpretation of this statute clearly shows that the property involved must be the property from the grantor or the transferor, as the case may be. But, of course, you must realize that at the same time this statute does not involve pounds, or sterling, or money, but it involves only real estate and property, or personal property, or largely property.

Q. Well, I will put it this way, then: Do you mean to assert here and now that a man is free to receive money, all the money that the conveyor has, when he knows in so receiving it, that the conveyor is doing it for the purpose of defeating his creditors?

A. Your question, of course, is entirely too abstract for either a yes or no answer. Only let me say this to you, that this statute is strikingly indefinite for the reason that there are hundreds of cases tried in this county every year, I might say thousands of them, where the title or the right of property are to be adjudicated and one person charges another with a fraudulent conveyance of the property, and the person who might be the beneficiary of an adverse decision might be held to have fraudulently received it, but that does not necessarily imply that such person is guilty of any of the crimes as prescribed by the statutes of the State of Illi-
1331 nois. I cannot answer the question you propounded, because your question is entirely too abstract, sir.

Q. Is it perfectly safe for a man to take money from another when he knows that the giver of that money is doing it for the purpose of defeating creditors, his or someone who has a claim for damages against him? Is it safe for him to do that?

Mr. Stansbury: That is objected to.

The Witness: I won't answer yes or no if you won't allow me to explain, because your question is almost unintelligible.

Q. Judge, your explanations go into civil cases and the like, and they become confusing without being enlight-

1332 ening.

A. And I think that is one of the problems you have to contend with here, counsel.

Q. The Supreme Court won't have that difficulty. Will you answer?

A. I don't know.

The Commissioner: Do you mean civil as distinguished from the criminal standpoint, whether somebody can recover back the money?

Mr. Overmyer: I am referring solely to the criminal.

The Witness: I am glad the witness has elucidated it. I think probably that that question might be answered best by asking you this question: That if you are familiar with the bankruptcy laws of this country, if it is not an act of bankruptcy if a person fraudulently transferred their property for the purpose of defeating creditors, and yet in how many instances I ask do you know where the bankrupt has been placed in jail because he conveys his property for the purpose of defrauding creditors?

Q. Assuming the state does not want to surrender its sovereignty, but wants to prosecute the man under those circumstances, do you think they could not, under these circum-

stances?

1333 A. Yes, but if you won't allow me to answer in my own way, I am afraid I cannot answer. Well, take it under the Illinois law: Under the Illinois law there is a statute which permits a person to recover property that has been fraudulently conveyed for the purpose of defrauding creditors.

Q. I am talking about the criminality of it.

A. That is what I am talking to you about, my dear sir; if we could come to an understanding. I would say there is a very vast difference between a fraudulent conveyance in the civil eyes of the law and the criminal eyes of the law. In order to place a person in jeopardy and successfully prosecute him of crime, he must be guilty of the crimes defined in the criminal law of this state.

Q. Has the conspirator in such a situation evaded the provisions of this section of the statute, namely 294, Chapter 38?

A. Whom do you mean by "he" and under what circumstances?

Q. The receiver who was given money and which he knew was given to him by the giver to defeat his creditors.

A. I should say the receiver is not guilty.

Q. Will you say why?

A. I have explained so many times already—

Q. In this particular instance, just here, when the statute says that every person who shall be a party to the fraudulent conveyance of goods and chattels made or contrived with intent to defeat or defraud others, or to defeat, hinder or delay creditors or others of their just debts, damages or demands, does not that embrace such a man as the receiver?

1336 A. There are three reasons, first, that the statute you have just read does not pertain to the question of the reception of property known to have been fraudulently obtained. Because it is my contention that it embraces only those individuals who are grantors or the transferors in the case. Secondly, that the section of the statute which you have read, the fraudulent conveyance act, pertains to property and real estate; it does not pertain to money. Thirdly, that this is a creditors' suit, and there is nothing contained within the charge or in this complaint which indicates that the relation of creditor applies to the defendant in this case.

1337 Q. Assuming a man prior to the perpetration of a fraud, when property is received by false pretense, counsels and advises the actual perpetrators of that fraud, and thereafter participates in the spoils, is it not true that he clearly could be held responsible under both our conspiracy statute and as an accessory chargeable as principal?

A. No, he could not be held under conspiracy, certainly not under conspiracy, but, of course, under the other section of the statute—what was that section?

Q. Accessory before the fact.

A. There is no such crime as accessory before or after the fact. It has to be connected with some particular crime, that is to say, larceny, embezzlement, murder, or some of the direct crimes that are specifically set out in the statute.

Q. Then it is absolutely true that a man can be the brains of a gang who go out and misrepresent stocks, and then participate in the proceeds, and be absolutely immune from

1338 prosecution in Illinois?

A. That is an argumentative question.

Q. It sounds bad, but it is a direct question.

A. Oh, well, I cannot possibly answer that yes or no, because—

Q. May a man, then, counsel and advise others how to perpetrate a fraud, and thereafter, if those people successfully obtain money by false pretenses, in consequence of that counselling and advising, and then the counsellor and the adviser participates in the money so obtained, would you say that such counsellor and adviser is not criminally responsible in Illinois?

A. I can probably best answer that—do you say he was guilty of murder, robbery, larceny, or confidence game, or what? In other words, I think we must get back, and not too far.

Q. Judge, you are here as an expert who, on any state of facts can tell us whether or not a man is guilty of crime. Now, you can answer that whether he is criminally responsible or not. And I submit he should do so, your Honor.

A. And I daresay, my dear sir, that you cannot answer it intelligently.

1339 The Commissioner: In the Kelly case decision, don't you understand there that in the decision of the Kelly case the Supreme Court decided in that case the respondent Kelly was extraditable, though found in Illinois, on the charge of receiving money knowing the same to have been fraudulently obtained?

The Witness: No, if the court please, I should say that the court did not so find. The major premise of this case is embezzlement and perjury.

The Commissioner: There were three charges there.

Mr. Overmyer: Embezzlement is not in it.

Mr. Gilbert: False pretenses.

The Commissioner: I mean, obtaining money by false pretenses and perjury.

1340 The Witness: Yes. I might say this, with all due respect and deference to Judge Holmes, who makes the bald and unquailfied and unsupported statement that receiving money knowing the same to have been fraudulently obtained is a crime by the laws of both Canada and Illinois—I further claim that in deference to the people who follow who might be charged with crime, that the least that the court could have done would be to have cited that particular section of the statute which would apply.

The Commissioner: But that is not the question I am getting at. The question of whether or not the respondent Kelly in that case was subject to extradition upon a charge of receiving money knowing the same to have been fraudulently obtained was in that case, was it not?

The Witness: It was the question.

1342 The Commissioner: Now, didn't the Supreme Court in that case decide that in that case he could be extradited upon that charge, though found in the State of Illinois?

The Witness: Yes, he did.

The Commissioner: Now, then, assuming that after extradition, though there were two other charges in that case in the prosecution in Manitoba, if for some reason the Canadian government was not able to go on with the prosecution for perjury, or obtaining money under false pretenses, under that decision of the Supreme Court he could have been tried on the other charge, is that right?

The Witness: Yes.

The Commissioner: Then in that case can we regard the opinion of the Supreme Court—I mean the decision of the Supreme Court in that opinion, and the language of Justice Holmes in the opinion, as being dicta?

The Witness: Yes, it would have been so regarded if it was developed in the trial of the case in Manitoba that there was no such crime in the State of Illinois, and of course that would be susceptible of proof, I understand, even in the Dominion of Manitoba.

Mr. Overmyer: The treaty says you cannot go back in extradition proceedings.

The Commissioner: I want to get it clearly what your opinion is on this question, that that part of Justice Holmes' opinion was dicta. I just wanted to clear up your answer.

The Witness: That is it, and just to make myself clear, if Justice Holmes had inferentially said that there is no distinction in colors between green and blue in the State of Illinois, I think it would have been *obiter dictum*, because it had no application to the case, and besides it would not be decisive unless our statutes of Illinois said there was such a distinction. I think it was not essential for the decision of the Kelly case.

The Commissioner: I mean, on the charge, I don't mean on the other charge, disregarding perjury and the false pretense count.

The Witness: And I undertake to say if the extradition had been based upon that, that Justice Holmes would have gone into the situation much more clearly and would have either cited the statute or else denied extradition.

HARRY M. FISHER, a witness on behalf of the respondent, being first duly sworn, testified as follows:

Direct Examination by Mr. Stansbury.

1344 Resides at 545 Stratford place. Am a lawyer. Am here in response to a subpoena. Have been a member of the bar of the State of Illinois since 1904. Am a judge of the Circuit Court of Cook County, a state court. Am now sitting as Chief Justice of the Criminal Court of Cook County. Have been a judge of the Circuit Court of Cook County since June, 1921. From June, 1921, until now, I would say. I sat more than three years in the Criminal Court of Cook County.

1345 Q. Now, then, because of the three years in which you have presided in the Criminal Court of Cook County and because of the fact you are Chief Justice now of the Criminal Court of Cook County, are you familiar with the criminal statutes of the State of Illinois?

A. I am familiar because of the things that you stated and because of other things. The Criminal Court of Cook County is a constitutional court, created by the Constitution of 1870, and is the only court of its kind in the State of Illinois. It is a separate court of record. Has its own clerk, but no judges are selected to serve in that court in the

1346 first instance. Under the Constitution the judges of the Circuit Court and Superior Court of Cook County alternate in holding court as judges of the Criminal Court of Cook County. As a Chief Justice now of the Criminal Court of Cook County, I exercise the administrative functions of the court. The Chief Justice is elected by all the judges of the Circuit and Superior Courts in a meeting where they sit as *ex-officio* judges of the Criminal Court. My opinion is there is no statute in the State of Illinois making the receiving of money knowing the same fraudulently to have been obtained a criminal offense in this state. There is no decision of the Supreme Court of the State of Illinois of which I know

wherein it is held that the charge of receiving money knowing the same fraudulently to have been obtained is a crime in the State of Illinois.

Q. Is there any decision of the Appellate Court of
1347 the State of Illinois wherein it is held that the charge of receiving money knowing the same fraudulently to have been obtained is a crime in the State of Illinois?

A. I could not say, but there is no published opinion of the Appellate Court, so far as I know. You understand that the Appellate Court writes opinions that are not published, and no one can tell unless he has been in a position to examine them, or his attention called to it. Whether such an opinion has ever been written, I don't know. But so far as the published opinions of the Appellate Court are concerned, there is no such holding, and my opinion is there is no opinion that has ever been written by any branch of our Appellate Court holding that to be a crime within the State of Illinois.

Q. Is receiving money knowing the same fraudulently to have been obtained a common law crime in the State of Illinois?

A. My opinion is that it is not, that it was not a common law crime. I have read the excerpt of the opinion of Judge Holmes in the case of Kelly *vs.* Griffin, reported in the
1348 241 U. S. Supreme Reports at page 6. I have observed the statement of Mr. Justice Holmes and that first sentence on page 15 of that report.

Q. Does his observation, "But the receiving of property knowing the same fraudulently to have been obtained is a crime by the laws of Canada and Illinois," correctly state the laws of Illinois?

A. Let me say first, no, but I would like to make an observation on that, if it is agreeable to all the parties at this point. This is not, this observation of Mr. Justice Holmes is not an observation of what the law is at all. If it is anything at all, it is a finding of fact that it is the law of the State of Illinois; not a proposition of law that has been held by the Supreme Court of the United States. It my be that in the record which it reviewed something appeared from which a finding may have been made by the trial court and followed by the Supreme Court, but it was a question of fact, not
1349 a finding of law by Mr. Justice Holmes. I have read what purports to be the unpublished oipinion of Judge

Landis in the case of Kelly *vs.* Griffin. I have read the excerpt that is part of the unpublished opinion of Judge Landis. The observation made by Judge Landis that the statutes of the State of Illinois against fraudulent conveyances would include the charge of receiving money knowing the same to have been fraudulently obtained does not accurately state the law of Illinois. In my opinion the receiving of money knowing the same fraudulently to have been obtained would not be an offense punishable under the fraudulent conveyance statute of the State of Illinois. The act of receiving money knowing the same fraudulently to have been obtained is not made a crime by any existing law of the State of Illinois, not in my opinion. The act of receiving money
1350 knowing the same fraudulently to have been obtained, so far as I know, has never been a criminal offense in the State of Illinois.

Cross-Examination by Mr. Overmyer.

Q. Do I understand correctly your observation with reference to Justice Holmes' statement is, you say he had before him some statement of fact or state of facts which he expresses as criminal by saying that the receiving of money knowing the same to have been fraudulently obtained is criminal?

A. I said, he might. He might have had that before him. I say that is not a decision on the question of law. It is a finding of fact.

Q. He has stated in so many words that he had before him facts which he describes as constituting a crime which in its elements would embrace simply that of receiving money knowing the same fraudulently to have been obtained.
1351 A. You may infer that he either had facts before him from which he held that there was such a crime, or that he had no facts before him, and that the matter was not pressed before the court, and that opinion was just lightly given without consideration. It would appear from a reading of the opinion that the question was not argued before the court. It was rather assumed.

Q. Well, putting it this way, and basing your future observations with reference to this opinion, that the counsel included for Kelly, William S. Forrest, John S. Miller, Edward Osgood Brown and Pierce Butler, now Mr. Justice Butler—

would you say that the matter had not been properly presented to the Supreme Court?

A. I would say that the first time that question was at all observed, that there was such a crime in the State of Illinois, was when it found its way in the opinion. I don't think it was necessary for a decision of the case, and I do not think it is a point that was argued. I did not look at the briefs.

1352 I was aware that it was sought to extradite him for three specific acts, and that the treaty provision of receiving money, knowing the same fraudulently to have been obtained, was referred to. I understand that.

Q. Did you understand that the Commissioner found that he was extraditable under such a charge, that the District Court found he was extraditable under the charge of receiving money knowing it to have been fraudulently obtained?

A. It may be so. I do not know that the opinion specifically states that. I do not recall it.

Q. That is why it had to get there, the Commissioner's finding—

A. No, no, there were other counts there.

Q. There were the three counts in the complaint which had not to be decided upon?

A. Now, on the question of perjury, the court [illegible]ors the argument that it was contended before the Commissioner that the evidence should have been material, and so

1353 forth. Now, on this question it does not appear it was even raised before the Commissioner as to whether it was an offense in the State of Illinois. There is a very interesting thing to be found in that very paragraph in the opinion of Justice Holmes we are speaking of, and that is, "There may be a doubt whether the appellant, if a party to the fraud, received the money of the government directly from it—"

1354 which, if it did, of course, would be obtaining money under false pretenses, in all probability. "Or through a third hand so as to be guilty under this count of the complaint." That he obtained it knowing it to have been fraudulently obtained. And "We are prepared to pronounce his detention upon the count unjustifiable in view of the finding. We assume, of course, that the government in Canada will respect the convention" and so forth, "and will try him on the offense for which he was extradited." Now, the curious thing about that is that the Supreme Court should be willing to have one extradited without determining the ques-

tion as to whether there is any evidence that the particular crime was committed, or whether there was proof of the fact that particular crime was at all involved. Now, the only answer to it must be that they considered that they
1355 had enough upon which to extradite him; that they would not trouble themselves in passing upon this particular question, but left it to the requiring government to try him only on such charges as they had demanded him upon. Because, remember, Justice Holmes clearly indicates that so far as the crime of receiving money knowing the same to have been fraudulently obtained, that that is an entirely different and separate crime from obtaining money in the transaction which was fraudulent. In other words, he clearly indicates that there can be no such crime even in such jurisdictions where there is such a crime, until there has been a completed fraudulent transaction; until somebody has conveyed property fraudulently and another party receives it fraudulently, and then comes the third, who obtains it knowing the same to have been fraudulently obtained in the first instance. And Judge Holmes goes on to say it is not clear that is the crime he was guilty of, or the crime of receiving directly, and they won't pass on it.

1356 Q. Don't you understand that what Judge Holmes had in mind was this, which was demonstrated by the evidence, that Kelly for his firm had received money from the government of Manitoba by false pretenses; that the firm turned over money to him or he may have got the money himself directly from the Manitoban government because he was the principal official of Kelly & Son, and that the Canadian government desired to protect itself, as we frequently do where we charge a man with larceny and not with receiving stolen property; the Canadian government sought to charge him not only with obtaining money by false pretense but of receiving the money from the institution he got it for. Don't you understand that is really what they had in mind?

A. Apparently.

Q. So they clearly did pass upon the question of whether or not they may extradite him from Illinois for receiving money knowing the same fraudulently to have been obtained.

A. I could not say that they had clearly passed upon it. I say that because the court says they are not sure.

1357 Q. They are not sure he was not the principal and therefore guilty only as principal. That is what they say we are not prepared to say.

A. "There may be a doubt whether the appellant if a party to the fraud received the money from the government, directly from it, or through a third hand." The third hand being Thomas Kelly & Son, but does that mean they are passing, if he did receive it through a third hand, that it would be extraditable? Not at all. They say in any event, since there is a charge that he received it directly, we are going to send him out, and we are going to rely upon the government who receives him not to try him on anything that he is not charged with.

Q. Now, Judge, see if this is not true, if you do not understand it. The fact of the matter is that the complaint, in describing the three crimes, embraces the provision of the treaties which says extradition may follow for larceny, embezzlement and receiving money knowing it to have been stolen or embezzled?

A. Pardon me. I did not say this was *obiter dictum*. You do not need to question me along those lines. I simply hold that they did not decide that question at all, that they find that there is nothing in the record upon which to extradite him. Enough to send him out, but express the hope—if they said on all, there would be no need to express the hope, that the receiving government would try him only on those. Then I say it would make no difference whether it does or does not pass on the question, that that at best can only be a finding of fact. Supposing Judge Holmes held that the wearing of a red necktie in the State of Illinois was criminal? Would that bind anybody?

Q. Judge, assume this as a premise, that what the Supreme Court had reference to when they said "We presume
1359 the Canadian government will not try him on other offenses," that they referred to the fact that Kelly, in the complaint, was charged with the group of crimes mentioned in the treaty, larceny, embezzlement and the receiving of money knowing it to have been unlawfully obtained, and there being, as Judge Holmes has shown, there being no evidence of larceny or embezzlement, they did not see fit to draw an amendment to the complaint, but as to that they said the good faith between governments makes us believe the Canadian government will not try him for embezzlement—

A. I cannot assume anything beyond the fact that the court here felt there was enough upon which to extradite him, nothing more.

Q. On the three charges, yes.

A. If it meant to establish it as a precedent, yes. Those of us who know Judge Holmes know full well that this is not the sort of language he would have used. If he really meant to pass upon that, he would have gone into every point that was presented to him. He is not at all slovenly in his work and is not at all given to loose language where a man's life or liberty may be involved, not at all. But we know him too well, where we find such language in his opinion, that that question was not argued. I know that because of my
1360 very high regard to Justice Holmes, and because of my absolute knowledge that there was no such crime in the State of Illinois that he describes.

Q. Now, Judge, didn't I understand you to say that it is your observation that he had before him facts which he described as criminal, in that way?

A. No, you did not understand me that way.

Q. All right.

A. I say that we might assume that he had either facts upon which he could make that finding, as a finding of fact, or that the question was simply assumed and that it was not argued.

Q. What facts can you conceive of then as being before him that would give rise to such an expression?

Mr. Stansbury: That is objected to.

1361 The Witness: I can conceive of a number of facts. I can conceive of the lawyers in the trial court saying, "We are not questioning this at all. We are willing to assume this is criminal. Nevertheless, he ought not to be extradited." Or I could assume some one appearing in the trial court and putting an interpretation upon the particular statute that you have before you that apparently Judge Landis has put upon it. Those things are possible.

The Commissioner: You mean, you assume that statute might have been put before the Supreme Court?

The Witness: I say, you can assume the possibility of it. I do not assume it was.

Q. Assume it was, would you say by that opinion that Judge Holmes' opinion was disregarding that statute, the construction of that statute?

A. No. I don't say that I assume that.

The Commissioner: I say, assuming that the opinion of Judge Landis, which was an oral opinion, but transcribed,

however, was attached to and part of the brief of the appellees in that case, would you then assume that Judge Holmes disregarded this construction of the statute as to interpreting it?

The Witness: I would say that if that was attached to the brief, if it were not argued, that Judge Holmes, being human like any other judge, might have assumed that was so, without inquiring. I mean, not argued orally or in the brief. If this question was argued in the Kelly case and the effort made to direct the attention of the court to the question
1363 of whether or not receiving property or money knowing the same to have been fraudulently obtained is a crime in the State of Illinois, and if the Supreme Court considered it, I would say despite the fact that that is only an expression of a finding of fact, I would pay a great deal of attention to it. As a matter of fact, I would have a great deal of respect if the matter was pending before me, I can say now very frankly that even in that event I would not feel bound to follow it. I would not feel bound to follow it, but I would give it a great deal of consideration and I would labor very much more in arriving at a conclusion but with my present understanding of the law, I would feel constrained not to follow it, simply feel it was a mistake, but, as I say, I would pay a very great deal of attention to it. I did not hear
1364 Judge David's testimony. If you will tell me what he said, I will tell you whether I agree with him.

The Commissioner: What is your opinion as to the obligations of an inferior court in following that sort of thing?

The Witness: Yes, in matters of law, Judge Walker.

The Commissioner: I recognize the distinction that you are expressing here, that that was a finding of fact in Judge Holmes' opinion.

The Witness: Judge Holmes himself might upon investigation of the authorities conclude that it was error, but it would be only an error of fact. No one can say.

Q. Judge Fisher, don't you think that a man who counselled and advised others in the perpetration of the crime of obtaining money by false pretenses, and the money then is obtained in that way, in violation of the section of the Illinois law, and this counsellor and adviser thereafter participates in the proceeds of that crime, that he could be tried in Illinois, both as an accessory before and after the fact and as a conspirator, in the crime of obtaining money by false pretenses?

A. I cannot even now say whether there is such a thing as an accessory to obtaining money by false pretenses. I
1365 would want to look at the statute, if there is such a thing as an accessory to obtaining money by false pretenses.

Mr. Gilbert: There is not.

The Witness: Are you asking, Mr. Counsel, just as an abstract proposition, whether it is possible to have an accessory before the fact to the crime of obtaining money by false pretenses? Are you asking it in that way, or are you asking it in connection with the question before us of the complaint?

Mr. Overmyer: I am asking it simply as you mentioned in the first instance, as an abstract proposition.

A. I see no reason why there could not be an accessory to any crime that is defined by our statutes.

1366 Q. Likewise, wouldn't it be true, Judge Fisher, that in Illinois we might reach such a situation by indicting for conspiracy where prior to the commission of the offense he counsels and advises the perpetration of the crime?

A. I do not think an accessory is a conspirator, necessarily.

Q. Isn't it a fact he is guilty in two ways, you might say, both as accessory, or is guilty as participating in the conspiracy to defraud?

A. Oh, yes, certainly; if men sit down and map out a plan whereby a certain crime was committed, he might be guilty of conspiracy.

Q. Isn't it true there is no decision in Illinois of any court that a man may not be an accessory after the fact to obtaining money by false pretenses where he does either of two things, where he either assists the criminal or felon in escaping, or receives and conceals the proceeds?

A. The statute clearly defines what an accessory after the fact is. I would say from my understanding of the statute, it would be a ludicrous proposition to state, and that is the reason why there is not such a thing.

Q. You do not feel a man could be an accessory after the fact to obtaining money by false pretenses where he takes the property and conceals it?

A. No, I think his assistance and concealment would have to be, under our statutes, of the criminal, not of the crime.

Q. You understand that at common law the receiving of money known to have been stolen was first reached by charg-

ing receiver with being an accessory after the fact to the thief?

A. Now, you are going into an historical question that I would want to examine before answering. I do know there was no such crime at common law as receiving stolen money knowing the same to have been stolen, as a crime in itself.

1368 It was made a substantive offense later on, which, of course, is the best proof of the necessity of making the receiving of money knowing the same to have been fraudulently obtained a substantive crime by some legislative enactment. I am quite sure it was not made a substantive offense in England before 1607 when the common law became a part of our state.

Q. Making a substantive offense of the receiving of stolen money after—the accessory after the fact, and probably had first tried to convict him—that is what gave rise to the crime, was it not?

A. You are asking me about the historical development of law which I would not want to venture an opinion on.

The Commissioner; I do not think we should go into that field very extensively.

1369 The Witness: Even embezzlement was not a crime at common law. Certainly it was not a crime that this man is charged with.

Q. Not in so many words?

The Commissioner: So far as the common law is concerned, you do not contend that this offense either of receiving stolen property or knowing it to have been stolen, or fraudulently obtained, was an offense under the common law of Illinois that we took from England, or Great Britain, when the statutes that were the law of England, up to the time of James I?

Mr. Overmyer: No.

The Commissioner: About 1607?

Mr. Overmyer: No, I don't claim it is a common law offense.

The Witness: I have read the fraudulent conveyance statute.

Q. Now don't you think, Judge Fisher, that that reaches a situation where a man receiving property which he knows is turned over to him without consideration for the

purpose of enabling the conveyor to defeat and defraud its creditors?

1370 Mr. Stansbury: That is objected to because it is a hypothetical question, not predicated upon the facts in this lawsuit.

The Commissioner: Objection overruled.

Mr. Stansbury: Exception.

The Witness: Are you speaking now of him as receiver who was a party to the consummation of the original fraud?

Q. I am speaking about the second one, who takes it, knowing that is the purpose of it.

A. I will say definitely, no.

1371 Q. What was the purpose, then, of the statute saying that every person is a party to the fraud, and so forth; what other persons do you think could have been in contemplation of that statute?

A. All parties who in any way had to do with the thing before it became a consummated fraud, whether it be the conveyor or receiver, in my opinion, is included, but under this statute he must be a party to the perpetration of the alleged fraud, but no one is included who though he may know ever so much that one of the perpetrators was holding money fraudulently obtained, could be guilty of receiving it from him. That statute certainly does reach conveyances where the original creditor may be creditors on contracts or torts or any other way. It embraces a situation by which might be reached every person who participated in the original

1372 fraud by which the conveyances or transfer was made, but it does not include anybody else.

The Commissioner: Judge Fisher, if a party in the hypothesis you have mentioned, in the assumption you have mentioned, was a participator in the alleged conveyance, he could be prosecuted as a receiver, could he?

The Witness: Certainly not. I say there is no such crime as a receiver.

The Commissioner: What is the interpretation of this fraudulent conveyance statute? Does that exclude the receiver? Is that your theory of it?

The Witness: It certainly does. Because, Judge Walker, in this very opinion of Mr. Justice Holmes, he clearly differentiates between the man who got his money directly from the government and the one who got it through a third hand, which is an entirely different crime, and if receiving it through

a third hand, there would have to be a specific statute
1373 designating it and making it a crime.

Q. As a matter of fact, he is a party to the fraud if he participates in the original acquisition of it?

A. That is what the statute says, "Every party to the fraud," and so forth. Whether there is any sense to the statute? If I owe Mr. Stansbury $1,000, and I have a piece of property which might be subject to execution, and I come to you and say, "I am going to transfer this piece of property to you," and you know what it is for, and I say to you "Will you take it, I don't want Mr. Stansbury to get his money," and that is the only purpose for which I transfer it, you and I are parties to the fraud and we may both be reached under this statute, but anyone receiving it from you, after the consummation of the offense, even though he knew that you obtained it fraudulently, could not be guilty under this statute.

1374 Q. But no, that is a step forward.

A. That is the charge here, isn't it?

Mr. Stansbury: Absolutely.

Q. The charge is this, put it this way: Assuming, getting down to a concrete case, and assuming that the Broad Street Press fraudulently got this money—

Mr. Gilbert: This is the charge, Judge Fisher, (indicating).

The Witness: I saw that.

1374 Q. Now, assuming the Broad Street Press had acquired a property by means of fraud, and that Factor, after it had got the property, received all this money from the Broad Street Press, knowing that the Broad Street Press had fraudulently acquired it, and that a fair inference was it was taken out of the treasury of the Broad Street Press in order to defeat its creditors, many of whom were
1376 the people who certainly were defrauded, would you say that that was not such an offense as would reach the conveyor, the Broad Street Press and the receiver, Mr. Factor?

A. I would say, under those circumstances, that if he were reached under a statute such as ours, that he might be reached on the theory, not of obtaining property or money that had been fraudulently obtained, but on the theory that the Broad Street Press had made an original conveyance of property in its possession for the purpose of defeating its creditors, whether they were creditors because of negligence,

or by contract or of original fraud committed against it. But that would not make him guilty of obtaining money knowing it had been fraudulently obtained, or receiving money knowing it had been fraudulently obtained. It would be on an entirely different crime, because when you receive money knowing it to have been fraudulently obtained, there
1377 must have been a consummated fraud before, and the person from whom he receives, when he received it, must have received it fraudulently, and it does not meet your situation at all.

Q. The question I propounded, the fraud has been consummated.

A. Oh, but you are not relying upon that fraud. You are relying upon that simply for the purpose of creating the relation of creditor and debtor under our conveyance act.

Q. It is true the two statutes are directed at quite different things.

A. But follow me. Your question goes further and includes another original fraudulent transaction, don't you see? Therefore, I say if in Great Britain they have such a statute as ours and they indicted him under that, my opinion is that he could be extradited on it, don't you see? But not because he received the money knowing the same fraudulently to have been obtained, but because the second transaction would have been held to affect even such a statute. The second one
1378 was the fraudulent one. Our statute aims at the original fraud and nothing more, and includes all parties who participated, not the second fraud, unless the second fraud, in itself, was done for the purpose of defeating creditors. The conveyances may all defeat contract creditors or tort creditors, so the same thing is true.

Q. Put it this way, then, so far as the Broad Street Press creditors, who relied, whose indebtedness was contractual, the conveyances by the Broad Street Press to Factor would come under that statute, if that is what it was done for?

A. If there was such a crime there.

Q. Yes, the same set of facts stands planted here.

A. In other words, in the hypothesis you have simply proceeded on the theory that it did not make any difference how the Broad Street Press originally got the property or how it became indebted to anybody, whether through negligence or contract. If it had a creditor, and if they made the transfer to the person in question for the purpose of defeat-

ing its creditors, no matter how they became their creditors, they might come in under that statute.

Re-direct Examination by Mr. Gilbert.

The Witness: The essential characteristic, or the essentials of the crime of being a party to a fraudulent conveyance and the crime of receiving property, knowing the same to have been fraudulently obtained, are not in any sense the same. They are separate and distinct offenses, in substance, essence and ingredient, because of one thing, the one in fact can never occur unless the other has been completely consummated.

(Thereupon Judge Samuell was permitted to make a short statement for the record.)

1380 Judge Samuell: May I say I have absolutely no interest in the conduct of this case? I have no financial interest whatsoever. I am here simply in obedience to a subpoena to come, and give what my humble opinions were. I would not have anyone infer I was interested in the outcome of this case, one way or the other.

The Commissioner: I want the record to show that the subpoenas in this case were issued upon a motion on request of the respondent's counsel. I do not want the record to show I subpoenaed these men. I think I am entitled to state that when they applied for the subpoena that you informed me that most of the persons whom you were to subpoena you had spoken to, and they were not unwilling to come.

Mr. Gilbert: That is not true in the case of Judge Samuell, but true in some others.

The Commissioner: I don't think you said all of them.

Mr. Gilbert: Some of them. That is not true as to Judge Samuell. I would like to have the record show that the respondent was limited in this line of testimony to five witnesses.

The Commissioner: Yes. This testimony limited to five witnesses.

Mr. Peebles: By action of the Commissioner.

Mr. Gilbert: May the record show that the Commissioner here limited the reception to five witnesses?

Mr. Overmyer: There was no contention that the demanding government wanted any more. I do not want the record to show we had anything to do with it. We objected to the legal experts for that.

(Thereupon the further hearing was adjourned to October 20, 1931, at 2 o'clock P. M.)

1385 Respondent's Exhibit 1. Map published by Government of South West Africa. Shows location of Spitzkopie Property.

1386 Respondent's Exhibit 2. Plat of the underground workings of the Spitzkopie mine; from the office of the Inspector of Mines at Windhoek, who was the mining authority of Southwest Africa.

1387 Respondent's Exhibit 3. By stipulation Exhibit 3 was two specimens of ore marked Spitzkopie 1 and 2 and it is further stipulated that said ore need not be certified in the record but will be produced upon hearings where required.

F. R. OVERMYER,
For Demanding Gov't.
G. GALE GILBERT, JR.,
For John Factor.

1388 Respondent's Exhibit 4. Copy of Pearson's original report on the Grosse & Klein, Spitzkopie Corporation.

LOCATION.

1389 This property is situated in the Rehoboth District (Bastard Gebeit) 15 miles North of Rehoboth Village and about 20 miles from the Main Line Station Rehoboth upon the Windhoek Walfish Bay section of the S. W. A. Railways, distant from Windhoek 63 miles.

DESCRIPTION.

The property at present consist of mining rights held direct from the Government as claims, having a length of approximately 2 miles along the strike of the veins with a width of 2000 feet.

Between the side lines or boundaries of the property I have upon the surface traced 6 veins or lodes, for a distance of over 2 miles. The whole of these veins which traverse the country from East to West are within the limits of the mining areas.

The various lodes are from 3 feet 6 inches in width, to upward of 10 feet (and where as afterwards stated in this report) except at uncovered portions, they are clearly defined.

Over this distance a large amount of prospecting work has been done more particularly in surface costeaning and pitting, clearly establishing the surface continuity of the veins.

If and when desirable further locations along the course of the lode can be obtained as undoubtedly the vein courses extend for a considerable distance beyond the exposed portions in both an easterly and westerly direction.

In tracing these veins a large amount of surface work has been put in particularly in the vicinity of the shafts and un-

derground workings, which I shall hereafter analyse. It is definitely decisive that continuity in a direct line exists from Nos. 1 and 2 location to No. 3, that this is over 2 miles 1390 along the course of the outcrop of the lodes.

Development Work Done.

The greater portion of the underground development has been carried out to prove the existence of payable ore bodies and to open them up. In this connection before describing this work I may say that one shipment of 40 tons of high grade Copper and Gold ore was shipped to Walfish Bay and then to Germany. The mineral contents as shown on Records at Government Buildings, Windhoek, was upward of 30% Copper and 10 Dwts Gold to the ton of ore.

No. 1 Shaft Gross Spitzkopie.

The shaft has been sunk to a depth of 100 feet, at 30 feet a level was driven both East and West upon the vein, of 100 feet in length. These levels were in ore shoots and ore was raised from East and West portions. In order to open up at depth the parallel vein system which is visible upon the surface, cross-cuts were driven North and South at the 100 ft. level, these cross-cuts apparently crossed at least 2 veins on the North end of the cross-cut (see plan). The ore and spoil dumps at this shaft carries a small percentage of Copper which was left over after the high grade ore was removed for shipment.

A short adit has been driven in an Easterly direction about 700 ft. away from the shaft exposing one vein, this is in a direct line with shaft 1 and 2 of the Kleine Spitzkopie workings and presumably upon one of the same vein series showing good values.

No. 1 Shaft Kleine Spitzkopie.

This shaft has been sunk to a depth of 66 feet, at a depth of 35 feet, 2 levels have been driven East and West to a total length of 275 feet, a cross-cut at this level evidently driven to connect with No. 2. shaft has a length of 170 feet North and 60 feet South of the shaft. Level No. 2 100 feet long has also been driven on one of the parallel lodes to the South of the shaft. In addition to this underground work on this level a winze has been sunk on the main vein. Both

the Drifts have encountered mineralized ore chutes and
1391 the cross-cuts both North and South intersected veins at this depth.

No. 2 Shaft Kleine Spitzkopie.

This shaft which is 340 feet distant North from No. 1 has a depth of 70 feet. Two levels have been driven East and West at the 70 feet level for a distance of 140 feet, and cross-cuts both North and South 122 feet. A winze has also been sunk upon this level. The cross-cut North intersected a vein in the series at about 75 feet from the main workings. These cross-cuts were also driven to intersect veins in the system. Upon completion of the cross-cut from No. 1 shaft the whole of the vein system between the shaft No. 1 and shaft No. 2 will have been explored.

The ore raised from No. 1 shaft contained both Bold (free) and High Grade Copper.

While the property has been idle the collars of the shafts have become somewhat dilapidated and will need renewal.

Direct evidence of the amount of underground work is visible upon the surface by the size of the spoil dumps upon which a large amount of hoisted material both vein matter and Country rock is present.

General Conditions, Geology, Etc.

The Physical characteristic of the surrounding country is rocky or sandy plains intersected by Koppies and Ravines. The Koppies are often flat topped with a cap of Diabase or Granatoid rock overlaying the country rocks which are highly metamorphosed schist with extensive granite dykes and interleaves of limestone usually Dolomitic in character. The general strike is Easterly and Westerly with a dip of varying degrees to the North and North West. The lodes usually follow the strike of the formation.

The series of quartz veins immediately upon this property are contact veins and follow the strike. There are within a width of half a mile at least 10 but within the immediate boundary of the located property six are clearly de-
1392 fined, for as before mentioned a distance of upwards of 2 miles. At various points along the course they have been uncovered and costeaned especially where mineralisation was most apparent. I have also previously mentioned the width from 3 feet 6 inches to 10 feet, in some instances they

widen out to as much as 25 to 30 feet and would appear as "Blow outs" standing 6 to 10 feet about the surface of the terain. The ore both Copper and Gold (from the conditions stated) appear as a series of lenses and from the length of the exposed veins, and their definite surface continuity should extend in these lenses to a considerable depth.

The Gold values probably occur in a definitely distinct phrase from the Copper values and obtain especially in the discoloured quartz (Iron stained) while the Copper values, especially the high grade ore occurs in the contact with either Limestone or Granitic material. This is evident from the nature of the material upon the dumps which consist of Schists other metamorphic rocks Limestone and Quartz all of which show signs or ore deposition both as High grade Sulphides and Carbonates of Copper. About 1000 tons of Quartz has been segregated for its Gold contents after all high grade and visible gold and copper has been hand picked.

Transport, Labour, Etc.

Motor lorries can be used practically anywhere except in the sandy beds of the dry watercourses. The roads are, especially main arteries, kept in condition and are more or less in repair. The District Road Board are responsible for their upkeep, local roads can be usually repaired or diverted at small cost. The main line from Walfish Bay via Windhoek is about 20 miles away, the nearest station at present is Rehoboth. This can with small expenditure be reduced to about 14 miles.

Labour is obtainable in fair quantity. Hereoes and Ovambos with some Hottentots are procurable. Wages vary 1393 according to the work from £3.0.0. to £4.0.0. per month.

General supplies of practically all descriptions can be obtained at Windhoek, 63 miles and small local supplies at the village of Rehoboth to both places the road are fair. Water is not plentiful but can be obtained by shallow Bore-holes or the judicious placing of dams which are in this country inexpensive.

Summary.

According to Records of the Mines Department, Windhoek, rich ore, has been shipped and this is also proven by both the work underground and the surface spoil Dumps etc.

I suggest that a start be made on No. 1 Shaft Kleine Spitzkopie both to Draft East and West at the present level and to continue the cross-cut, especially to the North with the object of opening up the high grade ore chutes.

With labour being extremely cheap in the district quite a moderate sum should be sufficient to carry out the development work suggested, and when expansion comes it should come from high grade ore shipped from the mine direct.

sgd. H. BRIAN PEARSON.
Fby. 1930.

To Permanent Investments Limited,
5, Court Row,
GUERNSEY.

1395 Respondent's Exhibit 5. Government map published by authority of Government of South Africa. Shows location of Ubib Property.

1396 Respondent's Exhibit 6. Pearson's report on Ubib claims made to Newberry, or to the Permanent Investments Company of Guernsey by order of Newberry.

1397 UBIB COPPER CLAIMS.

SITUATION.

These claims are located upon the Farm Ubib twenty-four miles from the Railroad town of Usakos and about 10 miles from the nearest siding on the Main Line Windhoek Walfish Bay. A fair lorry road can be used between the locations and this siding.

SURFACE INDICATIONS, AREA CONDITIONS.

Distance from Walfish Bay 100 miles. The claims are located upon the strike of a lode which outcrops for over 4 miles in an Easterly Westerly direction. They have a run of one and a quarter miles with a width of 1800 ft. The width of the ore shoots vary from 4 to 7 feet in width the whole of which is more or less mineralised and values in copper up to 30% have been taken out. There are other properties on the same lode system which were opened up some years ago and in three instances, shafts of over 100 feet in depth were sunk. High grade copper ore was shipped; the nearest property to the West (from which about 100 tons of ore averaging 25% of Copper has been shipped) is now under option to a Johannesburg Syndicate. The ore from this property aside from Copper Values carries a certain amount of Gold and Silver. So far the lodes upon this group have been proven by open cuts and costeans both upon Nos. 1 and 2 no work has been carried out at great depth. But sufficient work has been done to prove the existence of payable ore values.

WORK UPON No. 1.

Under my direction the following work has been put in:— An open cut has been made upon the vein. At this point the vein was 7 feet in width, the walls were free, a depth of eight feet was gained and very good ore removed. This open cut extended for 15 feet along the Strike with ore in places along the hanging wall for its whole length. The wall material was metamorphic schist with a Quartz extension
1398 on the Souther side. The general dip could not be defined but from the conditions of the work done on No.

2, it is approximately 70°. A number of cross-cuts along the courses of the vein were driven when evidence of mineralisation was apparent the whole of which gave good indications of ore at depth.

WORK UPON No. 2.

This claim has been prospected by an open cut 15 ft. deep and 20 ft. along the Strike of the vein, the whole of both the bottom and the face contains ore with a rich streak from 6 to 10 inches in width. In this instance the richer ore follows the hanging wall (see Sample). The remainder of the lodes will probably average up to 7% Copper. As in the case of No. 1, cross cuts have been made upon the strike of the lode where evidence of extensive mineralisation exists.

GENERAL.

This property is not an old location but an extension of other properties upon which values have been proven and which were profitably worked. One property is now shipping ore to Walfish Bay for transport to Europe.

Further exploration at depth, especially upon No. 2, is advisable. Taking into consideration the known length of the strike and the immediate evidence of ore values in the open cuts also the fact previously mentioned as to other properties now shipping, I consider that a shaft should be sunk for at least 100 feet and a drift be run either at 50 feet or 100 feet to explore and prove the ore at this depth.

sgd. H. BRIAN PEARSON.
Feby. 1930.

To Permanent Investments Limited,
5, Court Road,
GUERNSEY.

1400 Respondent's Exhibit 7, Stipulation that Exhibits 7 and 7a, two specimens of ore marked "Ubib one and two" and it is further stipulated that said ore need not be certified in the record but will be produced upon hearings where required.

F. R. OVERMYER,
For Demanding Gov't.
G. GALE GILBERT, JR.,
For John Factor.

1401 Respondent's Exhibit 8. Government map, issued by Goverment of Southern Rhodesia. Shows the District of Lomagandi and the Crescent Mine. Printed and compiled in the Surveyor General's Office in Salisbury, Rhodesia.

1402 Respondent's Exhibit 9. Milton's report on Cresent Mine.

Box 380, SALISBURY.
30th. June 1920.

The General Manager,
The Mayo (Rhodesia) Development Co. (1908) Ltd.
Salisbury.

Dear Sir,

CRESCENT MINE—LOMAGUNDI DISTRICT

I visited this Mine on the 26th inst. accompanied by Mr. Dudgeon, who showed me everything.

OLD WORKINGS.

There is a large extent of these covering a distance along the strike of approximately 900 feet. These Old Workings are both wide and deep, and go down in places to the 60' level of the Mine. They are in the form of a Crescent, the main strike being North West and 500 feet long, and the horns pointing South West and West respectively.

OUTCROP.

This is composed of solid ironstone and a "gossan" from which the Copper has been leached. I took a sample of this and it gave only 0.3% of Copper but 13.6 dwt of Gold. This bears out Mr. Blyth's sampling of the whole outcrop, a distance of some 500 feet, which averaged 11.3 dwt gold.

This outcrop could probably be mined to a depth of 30 feet, and over a width of approximately 10 feet. The gold seems free, and could be easily amalgamated.

THE MINE.

As this was full of water, I was unable to go underground, but the figures I give are from authenticated plans and copper sales, and from my own examination of the surface Dumps and Old Workings.

1403 Two levels have been driven, one at 60 feet and the other at 120 feet. They are both approximately 900 feet long, and it is between these two levels that all the Copper which has been sold was obtained, together with the fines in the dump on the surface. The ore body between these two

levels is a varying thickness, the South half averaging about 4 feet and the Northern half nearer 25 feet.

Most of the ore between these two levels has been stoped out, with the exception of about 3,000 tons forming the Shaft pillars. On the sinking of a new shaft, this ore could therefore be removed.

Some work has been done below the 120′ level at the North end—a Winze was sunk to about 40 feet at 35 feet down a Drive being put in to the North for a distance of 45 feet. This was sampled, and assays giving an average of 10% Copper were obtained over the Drive width, the full extent of the reef not being exposed.

Further along 30 feet to the South, the Incline Shaft goes to a depth of about 40 feet, and is said to be in good ore.

Another 90 feet further South a Winze was sunk from the bottom of the Compound or Vertical Shaft, reaching a depth of 90 feet. It was in fair ore, but the full width was not exposed.

A further 170 feet to the South a short Winze was sunk, but I was unable to ascertain what ore was opened up.

From these facts it would appear that there is every prospect of the lode continuing at depth.

The bottom points of the Mine are just beginning to open up the Sulphide ore, and the Chalcocite Chalcopyrite and Bornite are beginning to appear. These of course contain a higher percentage of Copper than the Carbonates, so
1404 that value of the lower ore is likely to improve—at any rate between the 120′ and 320′ levels, which would contain the zone of secondary enrichment.

SHAFTS.

The Incline Shaft has caved and would not be available for working the Mine.

The Compound or Vertical Shaft, which cuts the lode at the 120′ level, seems to be in good repair with the exception of the Headgear and Collar Setts, which would require immediate renewal. As this shaft is only 6x4 feet, it would not be of much use for operations on a large scale.

There are several other smaller shafts, but most of them have caved in.

As regards opening up and prospecting the Mine, a New Shaft would be a necessity, and a Vertical Shaft could be sunk

to the South of the present Vertical, where the reef narrows, and layed off to cut the reef at the 320′ level, thus opening out three levels by means of Crosscuts from the 220 and 420′ Levels.

Dumps.

There are dumps of fines from sorting, round the various shafts, which I carefully sampled, and my results (see schedule attached) go to show that there are some 10,000 tons of these Fines of a value of 5.72% Copper and 2.2 dwt Gold, and taking Copper at £80. per short ton and gold at 100/— would be worth £51,000.

This with the tonnage shipped, gives a total of 13,256 tons mined, of an average value of 7.3% Copper and 2.4 dwt Gold (see Schedule).

Machinery & Plant.

There is about £1500 worth of Machinery on the property, which has been kept in good order.

1405 All that would be required to continue operations would be another Boiler and a Sinking Pump, some Piping and a small steel Headgear such as that on the East Shaft at the Jumbo Mine.

Conclusion.

Taking into consideration the several points such as the long strike of Old Workings and a similarly long strike on the two levels opened up, and indications from the various points below the 120′ level showing continuity at depth, and the value of the ore at grass, I consider that this Mine is well worth spending £5,000 upon as asked for by the Owners, with the ultimate option of purchase at any time for £10,000 each and £10,000 shares in a Company to be floated with a Capital not exceeding £100,000.

Yours faithfully,

sgd. H. C. Milton.

1406 THE CRESCENT MINE

ESTIMATED TONNAGE AND VALUE OF DUMPS

Dumps Where Situated	Tons	Value Cu %	Au. dwt.	Tons X % Cu.	Tons X dwt Au
No. 3 Shaft South	1000	7.55	2.6	7550	2600
" 2 " "	200	5.20	2.9	1040	580
" 3 " "	630	7.14	2.5	4693	1575
Main Vertical Dump	1000	2.76	1.9	2760	1900
" " "	1320	6.53	1.6	8619	2112
" " "	100	4.79	2.3	479	230
" " "	1900	4.79	2.5	9101	4750
" " "	1600	5.92	2.2	9472	3520
" " "	360	5.61	2.0	2019	720
" " "	1640	6.02	2.3	9872	3772
Dump North of Vertical Shaft	150	4.79	2.3	718	345
Dump of Fines	100	8.77	2.6	877	260
	10000	5.72	2.2	57205	22364

VALUE:—

10,000 tons

Ore @ 5.72%, i. e. 572 tons Copper @ say £80. £45.760

2.2 dwt. 1100 ozs Gold " 100/— 5.500

ESTIMATED VALUE OF DUMPS £51.260

(Sd) H. C. MILTON.

1407 THE CRESCENT MINE

SUMMARY OF ORE SHIPPED AND REMAINING IN DUMPS.

Ore	Tons	Average Values Cu. %	Au. dwt.
Ore Shipped	3256	12.16	2.66
Ore in Dumps	10000	5.72	2.20
	13256	7.30	2.40

H. C. M.

1408 Respondent's Exhibit 10. Report of Morris on Crescent gold and copper claims.

The Crescent Gold and Copper Claims, situated 38 miles west of Sinoia, Lomagundi District, Rhodesia.

The present Railway terminates at Sinoia, but a survey North North West to the Zambesi has been made, passing within 10 miles of the Crescent.

There is a good transport road from Sinoia to the claims at present which can be used for motor driving.

The country around the claims for miles is all virgin Crown Land, is healthy and heavily wooded, an economic item of much importance, as all wood on Crown Lands is free for mining purposes, and this wood is most suitable for either mining timber or for charcoal, which can be used mixed with coke for smelting and for suction gas plant if required.

WATER.

There is sufficient water in the mine to keep a fair sized smelting plant going at once, and more can always be had if required by a bore-hole in the vleis.

The Crescent Claims proper are composed of 10 Gold Claims, registered as a Gold Block, which gives the owner the right to follow or mine their reef in ALL dips, spurs and angles to ANY DEPTH, within the boundary of their end lines, which means that no other party can sink and work their

reef as a deep level the same as is being done on the Rand Reef. There is no deep level law on Gold Claims in Southern Rhodesia mining laws.

The length of the block is 1,500 feet on the strike of the reef by 600 feet wide. Other claims adjoining could no doubt be acquired on option if required, and other ground if required for surface space can also be procured adjoining the claims.

The reef, or reefs (for personally, I consider there are at least two reefs) are *true* fissures composed of ironstone and quartz, mainly in slate formation with intrusive andesite dykes. The ironstone gossan capping of the reef has been practically leached of the oxidised copper carbonate to a
1409 depth of 60 odd feet, which is a common characteristic feature of this class of ore in the big mines of America and Australia, but the Gold has been retained, and no doubt being enriched in the leached zone, from erosion and reprecipitation, for careful sampling by Mr. Blyth and Mr. Milton, mining engineers, and in the case of Mr. Milton, a Government Mining Inspector, an average assay value of over 11 dwts. over a width of 10 feet, and several hundred feet of strike was given to an estimated depth of at least 30 feet (see Mr. Milton's report, 1920).

No doubt from about that depth, the gold value will lessen in value until the normal gold value of the reef is struck, namely from three to four dwts.

The copper values will act in reverse, as from leachment and reprecipitation the copper contents will certainly get richer in depth until the definite sulphide zone is reached, below the permanent water level. On reaching the definite sulphide zone, probably around 300 feet depth, I am confident from what I have seen at two distinct places along this line of formation, East and West of the Crescent, where a shaft had been sunk to the sulphide zone, that the grade was of a higher value than of any of the big copper mines producing today. The reef has been driven on for 1,000 feet at the 60 foot level, with reef still in both end faces. At the 120 foot level, it has been driven on for 300 feet, and at the 220 foot level it has been opened up for 100 feet.

The reef being lenticular, as is mainly the case in this class of fissure, blow and squeezes, one estimates the average width, which I do, at from 4 to 5 feet wide.

During the Great War period the mine was opened up, and the best ore from development was sent to the Falcon Mine Smelters to the value of £40,000 copper and gold. As transport both by road and rail was heavy in those days, the charges for smelting, refining, shipping, etc., were excessive, any copper ore under 13 per cent, sent to the Falcon Mine meant a loss, also the Falcon refused ore fines, so that all ore had to be screened, and only the best ore forwarded. With the result that there are large dumps of discarded ore and fines estimated at 10,000 tons lying at grass at present, these dumps have been sampled and assayed (see Milton's Report) and result in a return of 5 to 6 per cent copper, and from 3 to 4 dwts. gold, but personally I consider that a large amount of waste matter can be eliminated and by simple sorting bring the tonnage down by 50 per cent (5,000 tons) and raise the grade to around 8 per cent copper.

There is one great economic feature in this ore which has to be taken into consideration, and that is that this ore is ideal Self Fluxing for smelting purposes, which is a great asset in a proposition of this sort.

In conclusion, I would suggest a visit to the Mine and inspection of dumps, and the natural facilities for working a limited capital successful proposition.

	Tons	Cu	Au Dwts.
Tonnage of dumps	10,000	5.72	2.20
By sorting out to say	5,000	8.72	3.20
In Mine from 100 ft. to 220 ft. x 1,000 ft. strike x 4′ to 5′ wode average say,	40,000	8.	3

Estimate total 45,000 tons to 220 ft. including sorted dumps 45,000 tons value:—

Copper at 55/	£123,750
Gold	27,000
	£150,750

1411 Four years smelting with 50 ton a day furnace:—

Estimated profit @ £1,500 per month on above estimate,	£82,000 for four years
Allowing expenditure	68,750 for four years
	£150,750
Expenditure	68,750
Profit	£82,000

SALISBURY
24th June 1930. (sgd.) J. A. MORRIS

1412 Respondent's Exhibit 11. Report of Perkins on Crescent Mine.

BULAWAYO
January 28th, 1918.

The Members of the Crescent Syndicate
Salisbury.

Dear Sirs,

METALLURGICAL ASPECTS OF THE CRESCENT MINE.

Are the economic factors sufficient to warrant the erection of a Smelter? and if so, of what kind?

During the second week of January, ample opportunity was granted me for the purpose of making an investigation into these matters. I am indebted to your Mine Manager Mr. Fulton, for the courtesy and valuable assistance rendered, also to Mr. Condie who likewise did everything in his power to further the objects in hand.

THE MINES.

The lode in the Crescent Mine bears North-East by South-West, the width may be taken as 4 ft. over a distance of 600 ft. It dips at an angle of 45°. The vertical depth at present is about 150 feet, the country rock on both sides may be classified as a silicious Dolomite. In contact with the lode is a Shale on the hanging wall, and a Talcose Schist on the foot wall. Running parallel are two other lodes of about 4 ft. in width at a distance of 500 feet and 900 ft. respectively Eastward.

The Crescent lode possesses typical characteristics of many of the large copper Mines in Chile, first we have the decomposed zone which proceeds to the original water level. In the ferruginous body are variable copper enrichments of a secondary nature composed of Malachite (green carbonate of copper) Cuprite (red oxide of copper) Meleconite (black oxide of copper) Bornite (Peacock copper) Chálcocite (Vitreous copper). Specimens of all are descernible in different parts.

1413 The impoverishment of the ferruginous mass, especially in the Southern end of the Mine; need cause no anxiety. A few short crosscuts driven into the Talcose Schist foot wall, will show that impregnation of the copper acid solutions have flowed along the planes of fracture, and at the same time in places super-saturated the Schist. In the outcrop this action can clearly be seen. In your Montana Mine 6 miles South-West as illustration of this copper impregnation is visible, so much so that a prospecting shaft sunk to a depth of 45 ft. has produced 20 tons of 14% and 100 tons of 6% copper in the form of carbonates. The source of this copper will be found in a ferruginous mass, the lode; in a crescent driven East. In this instance it is very probable that a western crosscut will expose another vein.

Oxidydation throughout the whole district has proceeded to some depth. In the Mine known as the Gondia on the same belt a distance of 18 miles South-West from the Crescent, the primary mineral known as Chalcopyrite was encountered at a depth of 200 ft. The level of all the properties may be said to be the same. By analogy it would follow that the Crescent zone of oxidydation will disappear at about this depth.

In valuing a copper property the first consideration is the length of enrichment zone, the Crescent possesses even now 600 ft. development has not determined the total length. The deepest Mine in Chile known as the Dulcinea possesses an enrichment zone of over 945 ft. This Mine is over 3000 ft. in depth and averages between 7 and 8% copper. On the third parallel lode, in the property adjoining known as the Northern Star, the copper zone is at least 400 ft. of about 4 ft. in width. The leaching action here has been more severe than that of the Crescent. In a North-Easterly direction

1414 at a distance of 4 miles is the Mount Condie, a few hundred yards off the main road to Sincia. On this

property exists a body of pure Magnetite which in depth will alter to Pyrrhotite, an important adjunctment in both mineral forms to further smelting operations. The body is at least 16 ft. in width and of considerable length.

The Mines, Mount Condie, Northern Start, Crescent, Montana and Gondia are in series on a belt at least 24 miles in length, the direction of which is North-East by South-West; It is said that on this belt there are large areas where white man has never placed his foot.

A copy of a report on the Crescent Mine by W. F. H. Dudgeon, Esq., dated 17th June 1917 is attached, it covers the ground fully on shafts machinery, Plant and Policy, a perusal of same saves recapitulation.

Everything has been laid out on the Mine in an economical and miner-like manner. It has been my experience with secondary enrichment ores of this class, that the precious values are precarious in the present zone. In the primary ores it may be taken that the gold is intimately associated with the copper, the ratio of gold to copper is fairly constant. That is not always applicable to silver.

ORE RESERVES.

The ore dump measures 2100 tons, the assay certificate shows 6.55% copper. The 3000 tons forwarded to the Falcons contain say 12.5% copper. This averages 10% on the 5100 tons.

3472 tons of ore remain in the Mine. It would be safe to estimate 1000 tons of a little over 10% and 2476 tons at the dump value. We take this average to be 8%. It would certainly be conservative.

1415 At about water level you will encounter ores as Bornite and Chalcocite. This would then bring up the grade of your output considerably. The 8375 tons of leached ore in the Southern end I have not valued rather considering it a blank for the time being, although fully recognising the re-occurrence of its copper contents at a little further depth. We thus have available for smelting direct without concentrating by water,

2100 tons of dump @ 6.55%—137.55 tons copper				
3473 " ore in mine @ 8%—277.84 " "				
5573 "		415.39 "	"	average 7.45%

The dumps have been calculated by others @ 8% it must be remembered that I am dealing with a figure beyond 1000 tons, the grade could be brought up, but at a loss of appreciable copper.

METALLURGICAL TREATMENT.

In the district all the ores are soft and friable in the decomposed zone, and when mined may be said to be truly Fines. While the Blast Furnace in general is the cheapest means of smelting Coarse or lump form. One objection to it is, that the strong Blast necessary may carry away at least 10% of the fine dusty ore, more especially if we use Charcoal. Such fines may be settled as flue dust in flues and dust chambers, and made into briquettes and re-smelted, but this is an additional expense to be avoided if possible. In fact ore or concentrate in a fine condition, better treated in a reverbaratory Furnace. When putting the charge into the Furnace the stack damper is closed, and when the dust from the dropping ore has subsided, it is again opened. The ore is not then disturbed. The output of a Reverbotatory is much less than that of a Blast Furnace, and a larger proportion of fuel is needed, although it may be of a cheaper kind. Thus we use in Reverbaratory smelting 30% of Bituminous coal, as against 10% of Coke in regular Blast Furnace smelting.

1416 Concentration by water on the fine Oxides and Carbonate throughout the world has not proven a success. When the Mine reaches the primary ores, I will then draw out an economical flow sheet. At the moment we are fortunate in the grade and character of the ore which is amenable to direct smelting. The oxide contents will enable Blister copper to be made in one operation but when the concentrates are treated from ores of greater depth, Calcining becomes imperative. In due course this will also be dealt with.

FUELS.

Acacia is your predominant wood, a cord would cost 5/- when out near the Smelter site, it contains over 40% of water, the calorific power of the Cellulose has been experimentally determined by others to be about 3600. An additional reason for not employing wood in metallurgical smelting operations, is to be found in the fact that it retains even after prolonged air drying, 18 to 20% of moisture. The cellulose in dry wood of this type would contain carbon 49.3%, hydrogen, 6.3%,

oxygen 43.3%, nitrogen 1.1%. A ton of charge would need 2½ cords of such wood at a cost of 12/6. Coal say @ 50/- per ton at a consumption of 40% would equal 20/-. The coal would have 6400 calories. In a small Furnace of 20 tons capacity per 24 hours 18000 cords would be used in a year. Once the cord wood becomes depleted we lose a very useful lever in controlling the price of coal. Charcoal made from this wood would be very light and friable. We will consider this commodity out of question.

Fluxes.

Chalybite (Carbonate of iron) 60% iron, 38% carbonic acid. This vein runs parallel at a distance of a few feet with the Crescent lode, the width may be taken at 4 ft. In places it is replaced by Magnesium limestone of 54.35% Car-
1417 bonate of lime, and 45.65% Carbonate of Magnesia. A perusal of Mr. Pingstone's analyses shows silica contents to be negligible. The Magnetic iron ore in the Mount Condie is singularly free from Silica, when pure it contains iron 72.4% Oxygen 27.6%. This flux will be found to be of a special value, as previously stated it will change in depth to the mineral Pyrrhotite, which is of important fuel value. Only traces of silver and gold are found. All of these fluxes form fusible compounds with the excess silica in your ores.

Type of Furnace.

The Reverberatory Furnace I would recommend for the treatment of your oxidysed ores, and at a later period would still be of value would have a hearth area of 235 ft. and a grate area of 48 square ft. the ratio would be 5 to 1, the capacity 20 tons per 24 hours. It would require a round stack 50 ft. in height say 5 ft. in diameter with brick lining. If this is unobtainable a square stack would have to be built with an inside measurement of 16 square feet, 4' x 4'. The number of bricks for the construction of the Furnace alone would be 15000 at 10 lbs. per brick—75 tons, the iron work could be obtained second hand. Specifications have to be drawn out, all the material may be secured in Southern Rhodesia. To build same you would require a bricklayer under direct supervision of the Metallurgist. The analyses of your ores and Custom ores, would require a trained Chemist who would be available to take charge during the absence of your Smelter

Manager. For shift bosses, two good Indians should be secured to handle the natives necessary. The site erected is near the main shaft, the prevailing wind is easterly. A good slag dump can then be secured from the outcrop. The cost of the assembling factors may be considered as the lowest obtainable. A dwelling house would be necessary similar
1418 to the one occupied by Mr. Fulton, one room of which could be used as an office. Accommodation for the Chemist has been found in the house of your late Mechanic, and a suitable hut exists for the Assay Office.

Charge.

Without entering into Chemical technical details, the Siliceous slag selected will answer the purpose for a fairly clean separation of the Blister copper; and at the same time reflect favourably on the fuel consumption. If any adjustments have to be made, we will do so with Magnesium Limestone; Al_2O_3 is in small quantity, the ore is singularly free from difficulties, it is true that 75% matte would result in cleaner slags, but in a short time sulphur will be available.

Tons	SiO_2	Al_2O_3	FeO	CaO	MgO	Cu	S
Ore 100.	37.22	1.43	35.99	.42	.87	7.45	.22
Dolomite 10	.4	...	....	2.47	2.47	...	...
Magnetite 5	....	...	4.30	...	...	...	...
Charge 115	37.62	1.43	40.29	2.89	3.34	7.45	.22

	Slag		
SiO_2	37.62	tons	43.2%
Al_2O_3	1.42	"	1.6%
FeO	40.29	"	46.2%
CaO	2.89	"	7.1%
MgO	3.34	"	
Cu	1.50	"	1.7%

7.45 cu less 1.5—5.95 or 6.02 tons of Cu

The CO_2 and unestimated makes the difference

Economics.

A saving in the cost of refractories will be accomplished, if advantage be taken of the Graphite existing; when com-
1419 bined with clay.

Ore	600 tons—36.12 tons Blister copper @ 93%	
Flux	90 " @ say 10/-	£45. 0. 0.
Charge	690 @ 40% fuel—276 tons say @ 50/-	690. 0. 0.
Management		30. 0. 0.
Chemist		40. 0. 0.
18 Natives @ 30/-		27. 0. 0.
2 Indian shift bosses @ £10.		20. 0. 0.
Assay chemicals.		10. 0. 0.
Unforeseens.		40. 0. 0.
36.12 tons transport to Sincia @ 30/-		54. 6. 0.
" " " " New York @ £12.		433. 8. 0.
" " electrolytic treatment say @ £4.		144. 8. 0.
		1544. 2. 0.
36.12 tons less say 5%—34.32 tons @ say £100		3432. 0. 0.
600 tons @ 2 dwts—1200 dwts.		240. 0. 0.
		3672. 0. 0.

Cost per ton of ore £2. 11. 9.
Value per ton of ore 6. 2. 4.
Profit " " " " 3. 10. 6.
Total monthly profit shown 2117.18. 0.

the market price for copper has been purposely underestimated.

Conclusion.

The property offers every encouragement, in depth the lode is strikingly free from faults, continuity seems assured. When the primary ores are met with, the grade will certainly be lower, possibly no lower than that of the Mine Dulcinea previously mentioned. I recommend the main underlay shaft be continued and the Smelter erected.

I am, Dear Sirs,

Yours faithfully,

(sgd.) F. M. Perkins.
M. I. M. M.
M. I. M. E. London.

1420 THE BULAWAYO ASSAY OFFICE AND PUBLIC LABORATORY

Bulawayo.
23rd. January 1918.

Report No. 95.

F. M. Perkins, Esq.,
BULAWAYO.

Dear Sir,

A careful assay & chemical analysis of the samples, received on the 21st. inst, gave the following results:—

SAMPLE No. 1. (ORE IN BAG).

Fine Gold	1.7 dwts per ton.	
" Silver	1.7 dwts " "	
Copper.	6.55	per cent.
Iron (feO)	35.99	" "
Alumina (Al_2O_3)	1.40	" "
Silica	37.22	" "
Sulphur	0.22	" "
Lime (CaO)	0.42	" "
Magnesia (MgO)	0.87	" "
Co_2 & Unestimated	17.33	" "

SAMPLE No. 2. (BROWN CRYSTALLINE ROCK).

No Gold or Silver		
Silica	0.69	per cent.

SAMPLE No. 2 (WHITE CRYSTALLINE ROCK)

Silica	0.46	per cent.
Lime (CaO_3)	49.43	" "

SAMPLE No. 4 (MAGNETITE).

Trace of Gold & Silver		
Silica	3.55	per cent.

Yours faithfully,
pp GEO. A. PINGSTONE.

1422 Respondent's Exhibit 42. Extract from Southern Rhodesian Geological Survey Bulletin No. 9, pp. 55-7 written by H. M. Moufe, B. Lightfoot and A. J. C. Molyneaux.

THE CRESCENT MINE (CROWN LAND).

This property was so named owing to the continuous run of old workings being in the form of a crescent. The horn pointing south-west takes the same strike and bedding as those of the formation and is the greater in length and thickness; the other cuts obliquely to the stratification. At the junction the ancient working widened considerably. The gossan outcrop contains gold values, and there seems to be no doubt in the minds of those who first saw the property that the ancients worked for gold and not for copper. Towards the south-eastern point of the crescent there yet remains a large mass of the gossan or reef, resting on a footwall of slate that is fractured in all directions and stained by malachite. Opposite the reef and in place of the hanging wall is an outcrop of softened quartzitic crush-breccia the character of which is better gained in the first level of the mine where the rock is exceedingly tough, contains pyrites and is separated from the ore body by sheared and slickensided slate. Under the microscope (slide 781) the larger phacoids are seen to consist of felspathic quartzite in which lie a few carbonate rhombs. The "matrix" consists of large and small crystals of andesine (often broken) and small quartz grains held together by carbonate and chlorite. A few scattered cubes of pyrites occur.

Is it possible that some igneous rock (andesite or
1423 diorite) has been crushed up with a quartzite? Whatever it may have been, the rock after crushing has been affected by mineralizing solutions which deposited the pyrites and produced the chlorite and carbonate. For the present it may be called a mineralized crush-breccia.

Support to the above-mentioned possibility is forthcoming from the occurrence, but a quarter of a mile southeast of the Crescent shaft on the road to the Norman mine, of rocks that are probably andesites which have undergone alteration of a peculiar kind. They have the outward pitted appearance of igneous rocks, and on fracture show as finely crystalline rocks with green and grey patches. Under the microscope (slides 778, 779) they appear to be made up of plagioclase, quartz, muscovite and carbonates. The felspar is chiefly andesine

and the carbonates are calcite or dolomite and chalybite, altering to mossy limonite.

The significance of the association of fragments of igneous rocks with the mineralized crush-breccia gains in importance owing to the fact that similar breccia is found in several places along the mineral belt, north and south. It occurs at the Northern Star mine half a mile to the north of the Crescent reef, at the Mount Condie claims in a dyke-like outcrop of 1,000 feet long and some 100 feet wide associated with diorite, in a surface mass with pyrites at the head of the Druli river and at the Norman mine where there is also an outcrop of andesite somewhat similar to that near the Crescent mine. South of the Crescent shaft there is an exposure of breccia nearly abreast of Mount Sagatila. The above mentioned discoveries all lie in the valley of the Nyawenji and upper Diruli rivers—a valley that no doubt was induced along such line of rock shattering and crustal movements.
1424 Still further south-west at the Victory claims a pyritis crush-breccia carrying gold occurs in the old workings.

The existence of these igneous rocks with the associated and secondary phase of shattering, and the fact that all the mineral deposits so far found along the belt are seen to be confined either to the outcrop of such rocks or to the axes of the later movements, is of prime importance in the discussion of the genesis of the minerals of the belt.

The Crescent reef is situate on the margin of the Nyawenji vleiat the foot of slightly rising ground to the west. There is thise for much of the year a surfeit of vadose waters and a consequent continuous percolation down the vein channel to the water level which is at about 100 feet below the surface. Down to that depth the ore body is considerably weathered and contains a considerable value of the carbonates and oxides of copper. From this zone or containing 396 tons of metallic copper has already been realized.

It is in the zone between the water platform and the level at which water ceases to circulate, that is, where it becomes static, that the most important problems will be elucidated. Already some of the winzes in the work of development have pentrated the zone of secondary enrichment, and it is not likely, from the large amount of leaching that has taken place in the zone of weathering, that such concentration is confined to these places. It is below the static water level, probably some 60 feet lower, that the nature of the primary ore deposits

will be ascertained and it is on these ores that the ultimate stability of the mine, however long extended by the discovery of bonanzas in the enriched zone, will depend. If the surmised association between the igenous rocks, their subsequent brecciation and the mineral deposits be established
1425 there need be little fear that the extent of the two former factors will be circumscribed. It is the existence of payable ore in depth that is the problem, and is one that can only be settled by development.

With regard to the copper-bearing minerals found in the Crescent Mine, Mr. John Reekie writes: "Chalcopyrite occurs massive associated with calcite, chalybite and quartz. In one case it was noted that the alteration of the chalcopyrite is taking place and patches of a mineral having a reddish colour and fine peacock blue iridescence were found. This alteration product is probably bornite. In a graphitic rock, chalcopyrite is found in srystals of a bipyramidal type which closely resemble octahedra of the cubic system. Calcite stained by malachite is found in association. Cuprite, of a variety known as "tile ore," is found massive. Specimens show slickensided surfaces. Alteration to malachite is taking place. Malachite is commonly found. It occurs massive, filling cracks in white vein quartz and on a brown rock composed of quartz and limonite. In these cases it is found to have a flattened radiating structure. Malachite is also found on the surfaces of a comby quartz associated with limonite. In other specimens it is seen with a stalacitic and nodular structure, in fine needles radiating from a common centre. On one specimen of limonite and quartz rock an encrustation of highly lustrous mammillary limonite is found. Crystallized on the limonite are minute crystals of quartz and with them malachite, in very perfect prisms grouped in rosettes. Microscopically these prisms are seen to have an acicular structure; they are quite transparent and distinctly pleochroic, showing bluish green and bright grass green colours. Chalcantchite occurs as a bright blue encrustation on a leached quartzite. No definite srystal forms were observed."

The Geological Survey Office, Salisbury. 20.9.30.

1427 Respondent's Exhibit 13. Report of Malcolm Cowdie, mine captain, to Pearson, on Crescent Mine.

I put down all the Shafts on the Crescent Mine.

The first level (60 ft.) is practically all stoped out, for a distance of some 300 ft., but the reef is still in the face standing on the South West end.

On the North East end, the reef curles round like a question mark vis. ? & finishes.

On the second level (120 ft), the ore is only partly stoped out, & the reef at the North East end still carries on, also the reef on the South West end, is in the face. There are values in both faces, that is in the N. E. end & the S. W. end.

There is a winze which goes down on the reef from the 120 ft. level, but it only reaches about 30 ft., & is in very high grade ore.

Third level (220 ft.), in the cross out at the third level, the reef is about 20 ft. wide. Composed of Calcite Calibite & very much leached gossan (just like a cinder. There is a winze some 18 ft to 2 ft. wide, carrying very high grade ore going through the reef.

There was over 200 ft. of close timber all Border proof (1 ft. x 5 ft.) put in this shaft by me, with the exception of where the white ants have eaten the top timbers, the shaft will stand for years. The second level & the third level are not connected. & if the mine was de-watered one of the first things to be done, would be to push that winze I mentioned going down from the 2nd. level.

The Crescent will most certainly be a Mine some day but in my opinion, it will cost 1000. (One Thousand Pounds) to de-water.

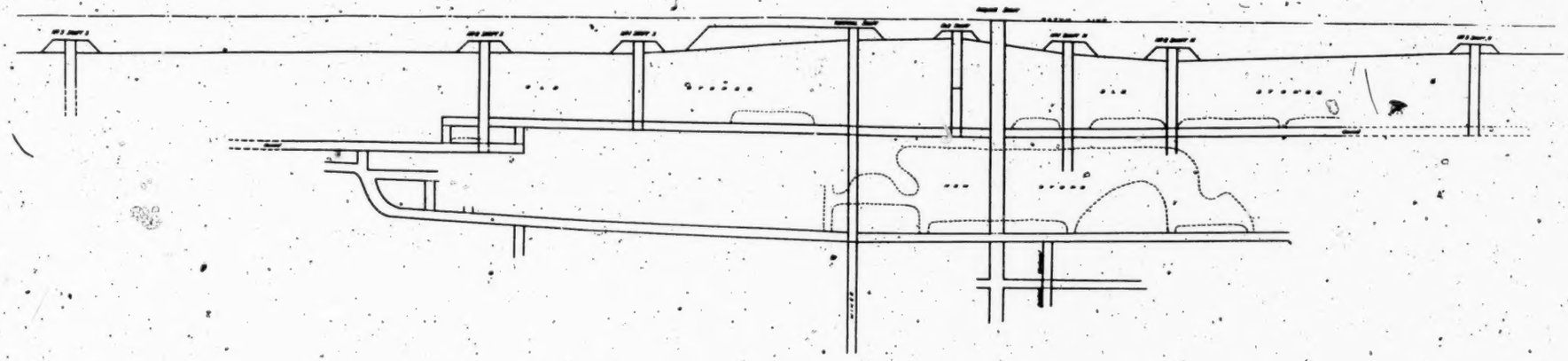
1428 When I cut the reef at the third level (220 ft.) I had passed through the water.

The Winze from above should have been connected & two more Winzes put down, because I could have winzed the shaft, & caught all water in a sump I could have put down dry.

(Signed) MALCOLM COWDIE,
Mine Captain.

1429 Respondent's Exhibit 14. Plans (consisting of three sheets, A, B and C), showing the whole of the Crescent workings underground.

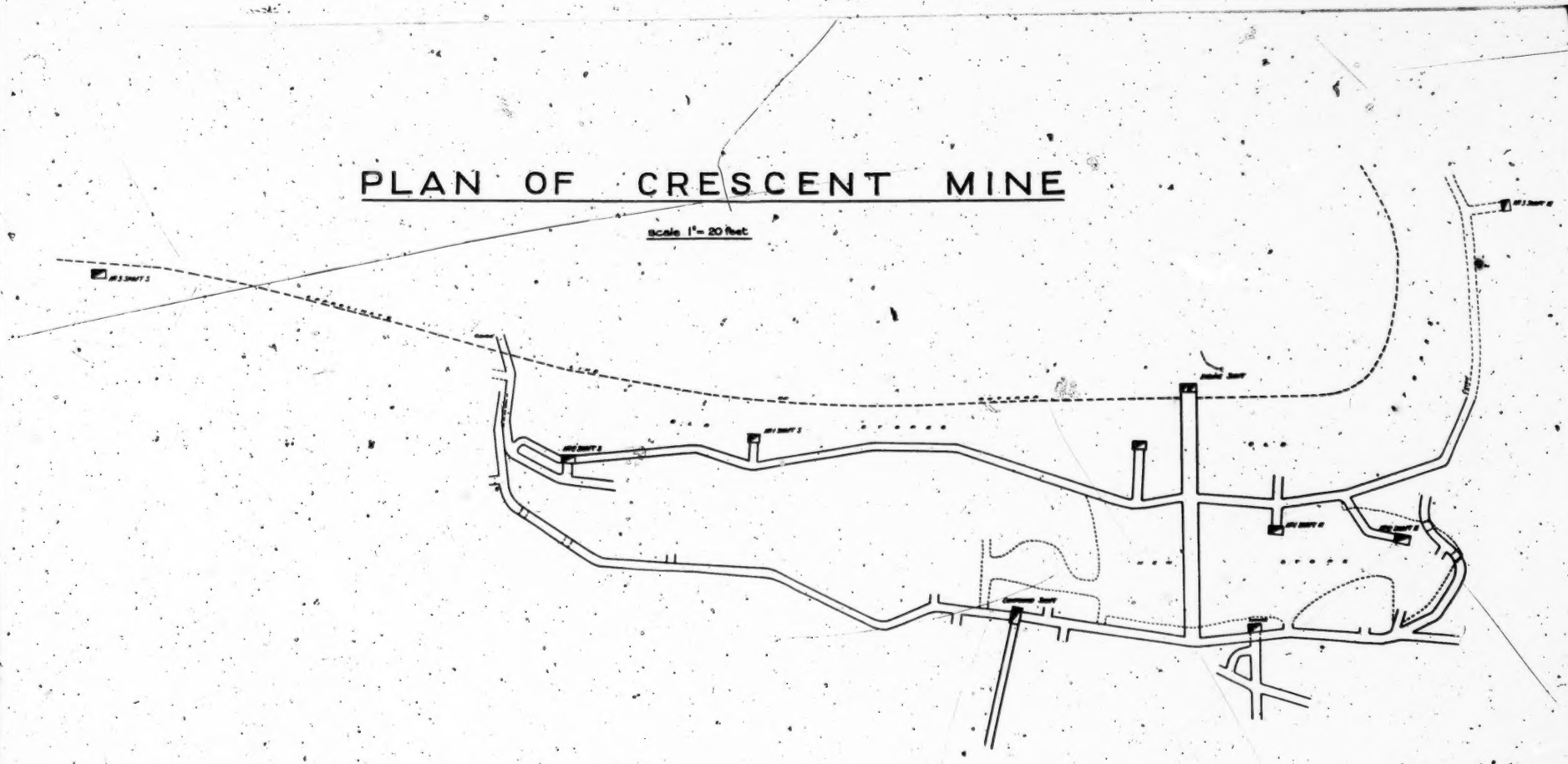
CRESCENT MINE LONGITUDINAL SECTION



631

PLAN OF CRESCENT MINE

scale 1"= 20 feet

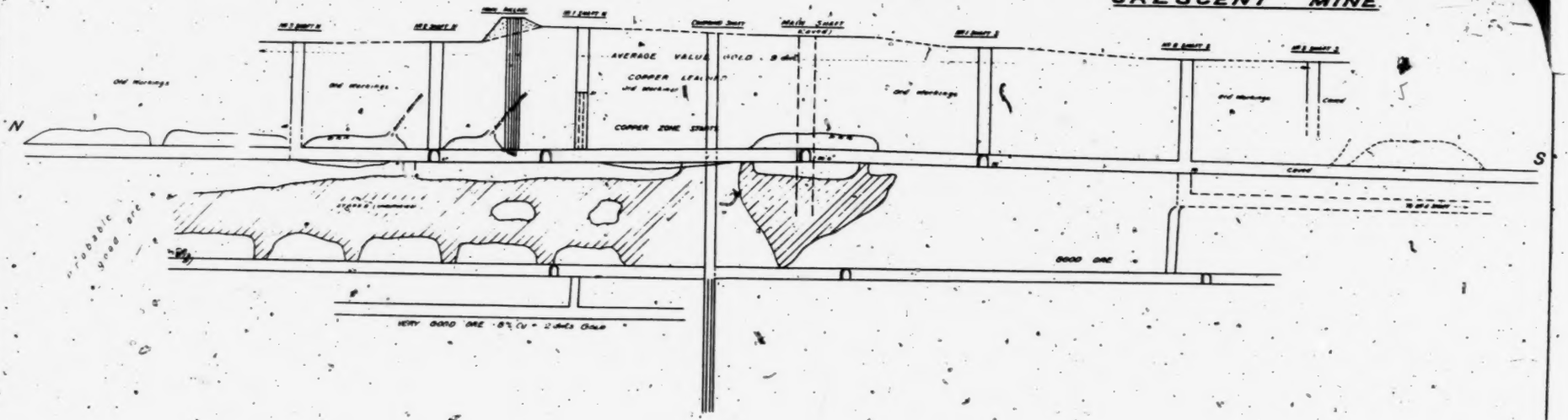


635

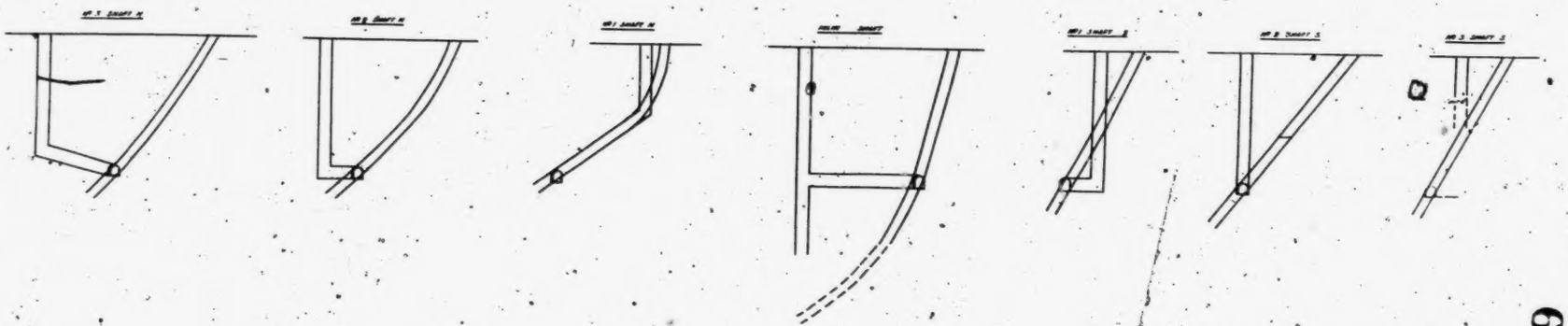
1432 Respondent's Exhibit 15. Drawing of the underground work on Crescent Mine. Given Pearson by state mining engineer at Salisbury.

LONGITUDINAL SECTION

CRESCENT MINE



TRANVERSE SECTIONS



1433 Respondent's Exhibit 16. Stipulation that Exhibit 16 was one specimen of ore marked "Crescent" and it is further stipulated that said ore need not be certified in the record but will be produced upon hearings where required.

F. R. OVERMYER,
For Demanding Gov't.
G. GALE GILBERT, JR.,
For John Factor.

1434 Respondent's Exhibit 17. Pearson's report on Crescent Mine.

Dear Sirs,

REPORT UPON THE "CRESCENT MINE."

Acting upon your instructions I sailed from England on the 28th June last for Southern Rhodesia via Cape Town. My objective was first the examination of the Crescent Mining property and following this examination and report made thereon submitting to you a scheme for laying out the work to be restarted on the Mines together with estimates of the cost of proposed work and more especially to trace and take up the extensions of the lodes already opened up and developed.

At Salisbury I was met by the late underground captain of the Crescent Mine. We arrived on the property on July 25th and my preliminary examination of the "Crescent" was made. Since then, however, I have repeatedly been over the properties up to and including the 25th November.

The following is my considered opinion of this Mine which has a combination of Gold as well as Copper contents.

SITUATION.

The Mines are situated in Southern Rhodesia about 22 miles from the railway with Sinoia as the nearest station, which township is available for all supplies for ordinary requirements.

TRANSPORT.

There is a fair road suitable for a nine months' traffic for 10 ton lorries or bullock wagons from railhead.

Water.

There is sufficient water in the mine for ordinary purposes, in addition ample supplies can be obtained from the "Vleis" or lakes of which there are hundreds of acres in extent.

Climate, Labour, Wood.

The climate is extremely healthy with an elevation of 5400 feet above sea level. An ample supply of labour is available, the rate of pay being much lower than obtains in Johannesburg in the Transvaal. The usual Southern Rhodesian "Kopies" are much in evidence; these Kopies are timbered and within 2 miles of the mines. Any kind of mining timber can be cut. I may at this stage state that as this is Government and not farming land the consent of the Mining Commissioner only is necessary to cut timber. This consent is never withheld.

Description of Crescent Surfaces.

This Mine with the extension received its name from the workings which are continuous in length for about 1000 ft. in the form of a crescent moon. With the exception of the Gossan capping which was presumably too hard to work, the early miners stoped the surface for its gold contents and also sunk shallow shafts and inclines to a depth of over 60 ft. with a surface removal in width of from 25 to as much as 50 ft. This work was done for the Gold contents only, to a shallow depth, as the Copper ores which were unleached were obviously left standing for the later development.

Visible Gold-Bearing Outcrops.

These Gossan Cappings consist of hard Ironstone in most instances along the strike of the lode. The original copper contents were leached out and re-deposited in the lower levels of the mine leaving the associated gold contents in a free or metallic condition. The width of this outcrop is from 12 to as much as 25 ft. at the South Western end.

The free gold contents vary, but an average value of 12 dwts. per ton of ore can be considered on assay values. I am informed that Mr. Blythe M. E. who was an engineer of prominence in Southern Rhodesia, thoroughly sampled this Gossan outcrop and reported an average of 11.3 dwts. for a length of 500 ft. along its strike.

This Gossan is essentially free milling. The whole of the outcrop is immediately available for a Stamp Mill and no difficulties should be encountered to the most economical method of mining and milling both by open cast work or underhand stopping from the surface. The average costs of mining and milling should not exceed 14/- per ton. This would leave a fair profit on 6 dwts. ore; upon my considered estimate of 12 dwts. (48/-) per ton, the profit resulting will be 34/- per ton. The tonnage giving 12 ft. in width and 500 ft. in length with a presumed depth of only 40 ft. will on a basis of 14 cubic ft. to the ton amount to 17,143 tons.

The foregoing must not be understood to represent the mine Gold values underground, but those immediately available in the outcrop ore which can be utilised as soon as a mill is erected and before underground work, which will obviously be necessary, has arrived at a stage where more large and high grade ore bodies are encountered warranting extension of milling plant.

Further Surface Conditions.

Aside from the Gossan outcrop adjoining this series of shafts and the corresponding ancient workings there are at least two parallel outcrops of a similar character upon the North West side of the above mentioned lode; these have also been worked in a small way but the late owners rightly confined their work to the presumably main lode system where all their work was concentrated.

I can see no Geological reason to assume that these lodes when depth is gained, should not contain the same average values both of Gold and Copper as those already encountered. On the contrary, I have been informed that a Geophysical survey has been made upon this strike with excellent results and that the fall in the price of Base Metals was the only hindrance to the deep development of these properties.

Dumps on Crescent.

Upon many occasions I have traversed and closely examined all the ore dumps, both those from the shallow workings and also from the deepest shaft, viz. 220 ft. There is definitely no signs of a depreciation in values but the contrary is apparent. The ore upon the dump of the Compound or deepest shaft is to all appearances closely allied to the ores usually

encountered in Secondary enrichment zones in the Copper Gold areas or Belts of Southern Rhodesia and should continue in depth to the permanent water table which in this district is 350-400 ft. Between the third level and this depth there will, in all probability, be very high ores encountered with possible native copper.

From a more or less superficial measurement of these various dumps I am of the opinion that from 9000 to 10,000 tons of ore of various payable assay values is available, aside from *fines* which during the working of the mine the Falcon Smelter was unable to take.

It is obvious that while the Mine was working from late 1915 to early 1919 only high grade Copper and hand selected ore was shipped. The (then) haulage 42 miles and the Railway charges to the Falcon smelter prohibited anything under approximately 20% Copper and its corresponding Gold values, say 6 dwts. per ton of ore, being shipped, (and realising about £40,000). Consequently, all ore under this percentage was dumped. Aside from the present value of Base Metals I am quite in accord with the report of the then Government Inspector of Mines, Mr. C. H. Milton, in his general estimate of the Metal (Gold and Copper) values as then existing in the Mine and on the dumps, viz. about 572 tons of Copper and 1100 oz. of Gold.

Underground Work.

With relation to the underground workings upon the mine I have had the great advantage of the assistance of the late underground mine captain of the "Crescent" with an exhaustive explanation of all conditions, also a copy of the original tracing of one of the plans and section maps.

A number of shafts were sunk on the Dip of the Lode S. by S; the majority of which not only produced payable ore but served to develop the property at depth. As Mr. Milton has so ably reported upon these various shafts and the approximate tonnage derived therefrom and that at the time when the mine has just closed down, I cannot add a great deal of information to that contained in his report.

There are 8 practically vertical shafts, 7 of which either touch the 120 ft. level directly or by means of winzes or underhand stopes, in addition there is one incline shaft. The deepest vertical shaft is 220 ft. with a cross cut of 15 ft. in high grade ore at the face.

QUOTATIONS FROM LETTER AND STATEMENT OF THE LATE UNDERGROUND MINE CAPTAIN.

"One the 2nd. level 120 ft. the ore is only partially stoped out and the reef at the North East end still carries on, also the reef on the South West end is in values in the face. There is a winze which goes down on the Reef from the 120 ft. level but it only reaches about 20 ft. and is in very high grade ore."

"Third level 220 ft. in the cross cut at the 3rd. level, the reef is about 20 ft. wide composed of Calcite (Calybite) and very much leached gossan just like a cinder. There is also a winze some 18′ to 20′ in depth for drainage purposes only, carrying very high grade ore going through the reef."

These quotations represent the views of a practical mining man who had worked underground the greater portion of his life in various mines. In order to confirm his statement of the conditions and ore bodies at this lowest level I closely inspected the dump at the compound shaft and it bears out and verifies the reported position in his statements. The dump has good ore upon it, all of which was obviously hoisted from this level about the time the mine shut down. This ore is mostly an earthy oxide of Copper (Cuprite) with some disseminated Bornite and Chalcopyrite.

The result of my inspection goes to bear out the views of the other Engineers who were underground on various occasions while the mine was working. Mr. John Morris, M. E. has known this property since the first modern shafts were sunk. He is also familiar with the conditions during the last working period when the ore was hauled to Sinoia and from there shipped to the Falcon Smelter. He not only endorses Mr. Milton's report but I am informed that he has written a short memorandum on the "Crescent."

OTHER MEMOS. AND REPORTS.

Attached is a copy of a Tracing made showing in plan and section the development. This plan is a duplicate of those in the office of the Mining Commissioner at Salisbury, where it is on file with a statement of the ore returns attached.

EXTRACTS FROM GOVERNMENT'S SURVEY REPORTS.

See herewith also Extract from Southern Rhodesia Geological Survey Bulletin No. 9 pp. 55-7. This was written by the present Director of the Survey, Mr. H. B. Maufe, who

was at the time he visited the mine accompanied by Mr. B. Lightfoot and Mr. A. J. C. Molineau, also Members of the Survey. According to this report at the time of his visit 396 tons of metallic copper had already been realised. It is quite evident from his statements that he was underground to the then deepest level of the property. It must be noted that the Director of the Geological Survey is not only a Mining Engineer but primarily a Geologist. As a Government Official his statements must be accurate, embodied as they are in official Reports sponsored by the Government.

CONCLUSIONS.

As I have previously stated in this report, I could not inspect this property below the 60 ft. level. I have, however, thanks to the collaboration and assistance of those mentioned, been enabled to form a very definite opinion of the ore bodies at 220 ft. and I base my deductions on the general conditions obtaining in and surrounding the Mine.

Pumping out and reconditioning the deep shaft (220 ft.) erecting a Head Frame and installing a Hoist with the necessary pumping machinery, including all wages (not overhead charges) haulage of timber, and general repairs, will cost approximately £2500. Upon the completion of this pumping, presuming as I do that the water is not ground water but local infiltration from the surrounding kopies and vleis, development at depth can be carried on and at the same time (as all statements agree that the bottom is in ore) pay ore can and will be raised and even at the present low price of Copper. This grade of ore will, including its admitted gold values, pay for the development as it proceeds or as soon as a market is found for the product. In the meanwhile the monthly expenses incurred, inclusive of local supervision and Kaffir labour, will not exceed £500.

Respecting the installation of a 5 Stamp Mill to crush the surface Gossan (Ironstone), this mill inclusive of power will cost about £2000. It should be after erection an immediate source of profit.

My thanks are due to the Commissioner of Mines, the Engineer and Inspector of Mines, and others previously employed on the Mines, and to Mr. J. Morris for valuable assistance in the compilation of this report. For your information I am attaching a copy of Mr. Milton's estimate in detail of the dump values of the "Crescent" Mine. You will note that his calculations are on a basis of Copper at £80. per ton.

The Crescent Mine

Estimated Tonnage and Value of Dumps

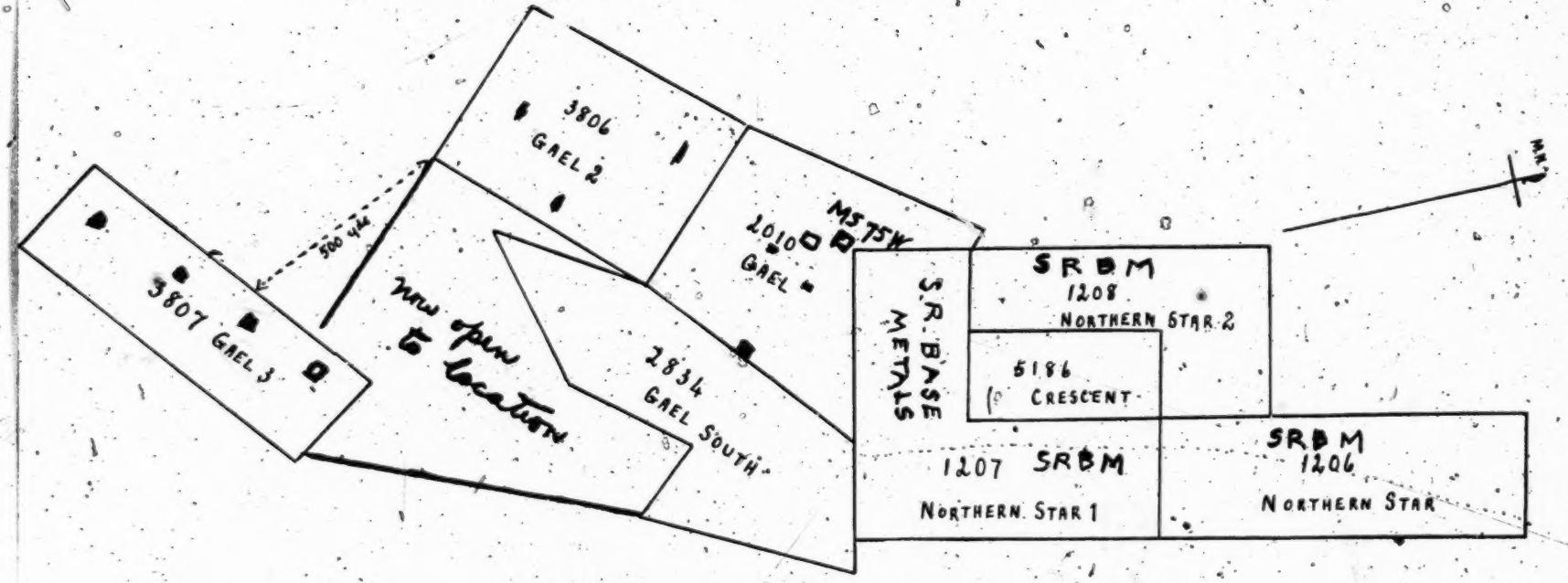
Dumps, where situated	Tons	Value Cu%	Value Au dwt.	Tons X %c Cu	Tons X dwt Au
No. 3 shaft South	1,000	7.55	2.6	7.550	2.600
" 2 " "	200	5.20	2.9	1.040	580
" 3 " "	630	7.14	2.5	4.693	1.575
Main Vertical Dump	1.000	2.76	1.9	2.760	1.900
" " "	1.320	6.53	1.6	8.619	2.112
" " "	100	4.79	2.3	479	230
" " "	1.900	4.79	2.5	9.101	4.750
" " "	1.600	5.92	2.2	9.472	3.520
" " "	360	5.61	2.0	2.019	720
" " "	1.640	6.02	2.3	9.872	3.772
Dump North of Vertical Shaft	150	4.79	2.3	718	345
Dump of fines	100	8.77	2.6	877	260
	10.000	5.72	2.2	57.200	22.364

Value:

10.000 tons ore @ 5.72% i. e. 572 tons Copper @ say £80. £45.760
" " " 2.2 dwt. 1.100 ozs Gold " " 84/- 4.620

Estimated value of Dumps £50.380

(Signed) H. Brian Pearson



Compiled from sketch maps lodged on registration of various blocks.
Not necessarily accurate.

MKS

1435 Respondent's Exhibit 17a. Report of Robert W. Hunt Company on Analyses of Ores, September 25, 1931.

File No. 25720-1 Order B-72918

Report C-7440-1 to C-7440-11.

Subject: Analyses of Ores.

Levinson, Becker, Glenn & Schwartz
One North LaSalle Street
Chicago, Illinois
Att'n Mr. G. Gale Gilbert, Jr.

Gentlemen:

As authorized by your letter of September 19, 1931, we have analyzed the eleven samples of ore handed to Mr. C. E. Plummer by Major Pearson of London, England, September 19, 1931.

MATERIALS RECEIVED

Lab. No.	Designated Property Marking	Description of Ore
C-7440-1.	"Crescent"	Quartz gang; mixture of red, green and brown.
C-7440-2	"Spitzkopie #1"	Quartz gang; green and gray.
C-7440-3	"Spitzkopie #2"	Quartz gang; green and gray.
C-7440-4	"Ubib (Schettler #1)"	Green and red.
C-7440-5	"Ubib (Schettler #2)"	Blue gray, green and red.
C-7440-6	"Gael"	Green, red, brown and gray.
C-7440-7	"Neardy #1"	Quartz and talc gang; green mineral.
C-7440-8	"Neardy #2"	Blue green mineral.
C-7440-9	"Otjsongati Extension 1"	Minerals blue, green and gray.
C-7440-10	"Otjsongati Extension 2"	Minerals blue and green.
C-7440-11	"Otjsongati Extension 3"	Red and small amount of green; molybdenite present.

These samples were assayed and analysed by chemists from the Robert W. Hunt Company, shown in this report:

	Percent Copper			Ounces per ton	
Designated Property Marking	C. E. Plummer	Wm. Bolger	E. J. Richards	Gold C. E. Plummer	Silver
"Crescent"	9.31	9.34	9.16	Trace	Trace
"Spitzkopie #1"	9.49	9.50	8.96	0.05	3.00
"Spitzkopie #2"	33.01	33.30	33.16	Trace	3.2
"Ubib (Schettler #1)"	43.52	43.84	43.32	0.05	1.0
"Ubib (Schettler #2)"	33.60	33.82	33.38	0.10	Trace
"Gael"	33.79	33.66	33.38	0.10	2.0
"Neardy #1"	28.51	28.76	28.64	0.71	1.50
"Neardy #2"	33.23	33.66	33.02	0.07	0.50
"Otjsongati Extension #1"	20.38	20.56	20.32	0.07	1.5
"Otjsongati Extension #2"	23.24	22.84	23.08	Trace	Trace
"Otjsongati Extension #3"	28.54	28.90	29.00	0.05	Trace

We certify that to the best of our knowledge and judgment the above report is correct.

Our obligation in making this investigation and furnishing this report extends only to our client. It represents our opinion upon the date of the report only, based entirely upon the report of our engineers, all of whome we endeavor to select with due care. We believe their reports are accurate, but the conclusions reached by them are matters of opinion, the accuracy of which we do not guarantee and we shall not be responsible for damages or loss of any kind which may be connected in any way with this investigation or report.

Respectfully submitted,

ROBERT W. HUNT COMPANY,
C. E. PLUMMER,
Technical Director
Chemical & Metallurgical Engineering

C. E. Plummer
RLG

Subscribed and sworn before me this Twenty-eighth day of September, 1931.

MARGARET LORNIK,
Name of officer Notary Public.

My commission expires Sept. 8, 1934.

1436 Stipulation that Exhibit 18 was a specimen of ore marked "Gael"; Exhibit 19 was a specimen of ore marked "Neardy No. 1"; Exhibit No. 19a was a specimen of ore marked "Neardy No. 2"; Exhibit No. 20 was a specimen of ore marked, "Otjisongati Extension No. 1"; Exhibit No. 20a, was a specimen of ore marked "Otjisongati Extension No. 2"; and Exhibit No. 20b, was a specimen of ore marked "Otjisongati Extension No. 3"; and it is further stipulated that said specimens of ore need not be certified in the record but will be produced upon hearings where required.

F. R. OVERMYER,
For Demanding Gov't.

G. GALE GILBERT, JR.,
For John Factor.

1437 Respondent's Exhibit 21. Agreement, dated June 27, 1930, between Permanent Investments Limited and the Vulcan Copper Mines Limited.

AN AGREEMENT made the twenty seventh day of June One thousand nine hundred and thirty BETWEEN PERMANENT INVESTMENTS LIMITED whose registered address is situated at 5, Court Row, Guernsey, a Company registered under the Limited Liability Laws of Guernsey (Hereinafter called "The Vendors") of the one part and the VULCAN COPPER MINES LIMITED of Bulawayo, Rhodesia, a Company registered under the Limited Liability Laws of Rhodesia and having its registered office situated at Bulawayo in Southern Rhodesia and a branch office at Victoria Street S. W. 1. in the City of Westminster (Hereinafter called "the Company") of the other part. Whereas the Vendors are possessed of or otherwise well and sufficiently entitled to certain copper bearing properties and the Crescent a copper mining proposition short particulars of which said properties (hereinafter called "the scheduled property") are set out in the Schedule hereto and whereas the Company was formed for the purpose of acquiring and mining mineralised propositions and have agreed to purchase the "Scheduled property" from the Vendors NOW IT IS HEREBY AGREED that the Vendors hereby agree to sell and the Company to purchase the scheduled property being all mining and other rights relating thereto or arising thereout on certain developed mineralised blocks of copper claims, as more fully

1438 described and set out in the Scheduled property attached hereto. The Scheduled property is sold by the Vendors to the Company on the same conditions and regulations as those on which it is held by the Vendors or as they are entitled thereto. The Consideration for the said sale shall be the sum of Five Hundred and Twelve Thousand Pounds payable as to Twelve Thousand Pounds in cash and as to the balance of Five Hundred Thousand Pounds payable at the option of the Company either in cash or by the allotment of One million shares of Ten Shillings each credited as fully paid up in the Capital of the Company such shares to be taken as issued at their par value. The Completion of the said Sale shall take place on or before the Fifteenth day of August One thousand Nine Hundred and Thirty or at such later date as shall be mutualy agreed upon at the registered office of the Vendors.

The Vendors hereby agree with the Company that they will at all times hereafter do and execute all such further acts deeds matters and things as shall be requisite or necessary for the purpose of conveying assigning and ceding the Scheduled property to the Company or as they shall direct and pending such Conveyance assignment and cession and after the receipt by the Vendors of the said purchase consideration the Vendors shall be deemed to hold the said prop-
1439 erty as Trustees for and on behalf of the Company.

The Vendors shall duly pay and discharge all legal and other expenses which may become payable in connection with the completion of the necessary legal formalities for carrying this Agreement into effect.

IN WITNESS WHEREOF the Vendors and the Company have hereunto caused their respective hands to be attached hereto the day and year first above written.

Signed by the said
Ira Clement Ozanne
for and on behalf of
THE PERMANENT INVESTMENTS
LIMITED in the presence of

Witness—F. Newbery,
15, Copthall Avenue, E.C.2

For and on behalf of
PERMANENT INVESTMENTS
LIMITED

IRA C. OZANNE,
Director.

Signed by the said

for and on behalf of the
Vulcan Copper Mines Limited
in the presence of

Witness—Alfred H. Bonnard,
80, Coleman Street, E. C.
Engineer

For and on behalf of the
VULCAN COPPER MINES
LIMITED

A. P. SPRANGE
Director.

(Stamp 6d)

1440 SCHEDULE.

BLOCK A. The Crescent Copper Mines covering some 62 acres on which development work has been carried out by the means of shafts of a depth of 170 feet or thereabouts with cross cuts at varying levels connection with the copper lode on which driving has been completed on the run of the reef over a length of 900 feet or thereabouts disclosing an

estimated tonnage of payable copper ore ready for stoping amounting to 3000 tons with an enormous tonnage in sight or proved reef formation giving large zones or chutes carrying heavily mineralised ore running in places as high as 20% copper. One of the dumps there is an estimated tonnage of some 10,000 tons of ore containing 572 tons of Copper and 1100 ounces of Gold of a total estimated value of 34600 Pounds taking Copper at 56 pounds per ton and gold at 80/- per oz.

The said developed Mine is situated in the Lomagundi District of Rhodesia, particulars of the development, plans of working, details of mineral values and reports of mining engineers are available.

Block B. This Copper Mining Area is located in the Hoboth District at a distance of some twenty miles from the town of Windhoek, South West Africa, and is situated on the well known copper belt embracing some six copper
1441 lodes or veins having a run of some two miles outcrop throughout the property with a width of property of two thousand feet.

The various lodes are from 3'6" up to 10' in width, a large amount of prospecting and development work has been done.

Shafts have been sunk to depths of over 100' with cross cuts to the lodes; and levels driven along the lodes proving the continuity in length and depth of the respective mineralised reefs. Ore to the value of upwards of 30 per cent copper and 10 dwts gold to the ton of ore has been shipped to Europe.

Block C. South-West Africa. This group of Copper Claims is situated on the same belt as the above Block B. The lode so far opened up has good width and values showing Copper through the entire length of the property. The pay ore occurs in lenses and in the shallow shafts and cuttings is gaining in width as depth is gained, having one mile outcrop with a width of about 2000 feet.

(Intd.) I. C. O.

1442 **Respondent's Exhibit 22. Estimate of capital necessary for development of Crescent Mines.**

VULCAN COPPER MINES

CRESCENT MINES

Capital Necessary for Development

Reconditioning, Dewatering, Underground Work:

	£	S.	D.
A. Shaft Head:			
Head frame steel with shieve wheel complete.	50.	0.	0.
500 ft. ⅝ Construction wire rope.....	15.	0.	0.
Shaft collar Reinforcement expanded metal.	10.	0.	0.
B. Hoisting Machinery:			
Power Hoist Semi Diesel Driven with shaft and pulleys or direct drive. 25 cwt. Direct Pull	75.	0.	0.
Cages for Compound Shaft.....	20.	0.	0.
Crab Winch	12.	0.	0.
Sheer Legs	10.	0.	0.
C. Pumping Machinery:			
25 H. P. Semi Diesel Type Horizontal Engine. Shafting and Pulleys.....	200.	0.	0.
3 Throw Taugye geared pumps 4" by 6" for 2600 gallons per hour. 440 feet 2".....	120.	0.	0.
440 feet 2" delivery pipe. Bends, foot valves and strainer	40.	0.	0.
D. Compressor:			
1 Ingerol Rand Type Semi Portable Compressor for 2 Jack Hammer Drills 3 Jack Hammers	900.	0.	0.
500 ft 2" air delivery pipe with necessary bends and flexible hose.....	60.	0.	0.
E. Electrical Power:			
1 12 H. P. D. C. Generator & Starter.....	50.	0.	0.
1 6 H. P. D. C. Motor.....	45.	0.	0.
1 D. C. lighting set 30 C. P. lamps, wiring, switch board, etc.....	100.	0.	0.

1443

	£	S.	D.
F. Underground:			
Steel laddres for manway 24. 10 ft. lengths.	48.	0.	0.
Rails 1000 ft. 16 lb. 20" gauge sleepers, turn outs, fish plates, etc.....	140.	0.	0.
Trucks—6	120.	0.	0.
Ventilating Fan and tubes, independent drive	100.	0.	0.
Mining Timbers	150.	0.	0.
G. Surface:			
Blacksmith & Machine Shop Forge Anvil Tools. Stocks & dyes, Bench Hack Saw, Jim Crow, etc.....	50.	0.	0.
Small lathe, necessary tools, necessary shafting, pulleys, etc.....	50.	0.	0.

H.	**Mining Tools:**			
	Drill Steel—Pick Shovels, Crowbar Jumpers, etc.	60.	0.	0.
	Dynamite Fuse, Detonation Acetylene lamps carbide, etc.	60.	0.	0.
	Cement—5 tons	35.	0.	0.
I.	**Construction:**			
	Concrete Mixers—Schrrens, etc.	5.	0.	0.
	Galvanised Iron 26 guage, 3 tons	75.	0.	0.
	Angle Framing with necessary bolts	20.	0.	0.
	Doors, windows, necessary fixtures	20.	0.	0.
	Water tanks, 2000 gallons	45.	0.	0.
J.	**Transport:**			
	2½ ton Lorry	400.	0.	0.
	15 cut lorry	175.	0.	0.
	Spares, etc.	75.	0.	0.
	Crude oil, 20 tons	180.	0.	0.
	Parafin	50.	0.	0.
	Petrol	100.	0.	0.
1444				
		£	S.	D.
K.	**Stamps Mill:**			
	Battery 5 stamps	1,000.	0.	0.
	Crushers, Screens, Pulleys, etc.			
	Tables & Concentrating Plant.			
	20 H. P. Semi Deisel Eng.	175.	0.	0.
	Assay office plants	100.	0.	0.
L.	**General Erection Whole Plant:**			
	Costs, labor	800.	0.	0.
M.	**Railway Freight Charges:**			
	To Sinoia or siding	200.	0.	0.
	Total	5,940.	0.	0.
	Sinking 100 ft. from 220 ft. to 320 ft. level at per foot incl. timber £5	500.	0.	0.
	Drifting at 320 ft. level 500 ft. at £3 per foot incl. timber	1,500.	0.	0.
	Upraises and winzes to block out ore 200 ft. at £4 per foot inc. timber	800.	0.	0.
		2,800.	0.	0.
	Balance for extra work where necessary	260.	0.	0.
	This estimate includes all immediate overhead charges for staff at mine.			
	TOTAL	£9,000.	0.	0.
	Small smelting plant	10,000.	0.	0.
	Unforeseen charges	1,000.	0.	0.
	TOTAL	20,000.	0.	0.

1445 Respondent's Exhibit 23. Estimate of capital necessary for development of Spitzkopie.

VULCAN COPPER MINES

SPITZKOPIE

Capital Necessary for Development

Reconditioning, Dewatering, Underground Work:

	£	S.	D.
A. Shaft Head:			
Light Steel head frame complete	50.	0.	0.
400 ft. wire rope ⅝"	12.	0.	0.
Expanded metal for shaft collar	10.	0.	0.
B. Hoisting Machinery:			
Power Hoist Semi Deisel Shaft & Pulley or direct drive 1 ton direct pull	65.	0.	0.
Cages for Shaft	20.	0.	0.
Crab winch	12.	0.	0.
Shear legs	10.	0.	0.
C. Pumping:			
25 H. P. Semi Deisel Type Horizontal Engine with Shafting & Pulleys	200.	0.	0.
3 Throw Tangye Geared Pump 2600 gals. per hour delivery	120.	0.	0.
Delivery pipe 2" bends, foot valves, etc.	40.	0.	0.
D. Compressor:			
1 Ingersol Ramd Type Portable 2 Jack Hammer Drills	875.	0.	0.
500 ft. 2" Air Delivery necessary fillings Hose, etc.	60.	0.	0.
E. Electrical Power:			
12 H. P. D. C. Generator & Starter	50.	0.	0.
6 H. P. D. C. Motor	45.	0.	0.
D. C. Lighting Set. Switch board, wiring, etc.	75.	0.	0.

1446

	£	S.	D.
F. Underground:			
20-10 ft. lengths, steel ladders	40.	0.	0.
750 ft. 16 lb. 20 Gauge Rails, sleepers, turn outs, fish plates	120.	0.	0.
Trucks, 4 at £20.	80.	0.	0.
Ventilating fan & tubes independent drive	75.	0.	0.
Mining timber, framing, etc.	100.	0.	0.
G. Surface:			
Blacksmith Shop Forge, Anvil, Tools, stock & Dies, Bench Saw, Vise, etc.	50.	0.	0.
Small lathe 7 tools	30.	0.	0.
H. Mining Tools:			
Drill steel, picks, shovels, bars, jumpers, jim crow, etc. dynamite, fuse, detonators, carbide lamps, etc.	50.	0.	0.

		£	S.	D.
I.	**Construction:**			
	Cement—4 tons	25.	0.	0.
	Galvanised Iron sheets 26 guage 2 tons	50.	0.	0.
	Angle Iron Framing Bolts, etc	15.	0.	0.
	Doors, windows, fittings, water tanks	15.	0.	0.
	2000 gals. Water tanks	30.	0.	0.
J.	**Transport:**			
	2½ ton lorry	400.	0.	0.
	15 cwt. light lorry	175.	0.	0.
	Spares	75.	0.	0.
K.	**Fuel:**			
	Crude Oil—20 tons	180.	0.	0.
	Parafin	50.	0.	0.
	Petrol	100.	0.	0.
L.	**Erection Costs:**	500.	0.	0.
M.	Railway charges Rheoboth Siding	75.	0.	0.
	TOTAL	3,879.	0.	0.

1447

	£	S.	D.
Brought Forward	3,879.	0.	0.
Estimate of Development Work:			
Sinking on shaft from 100 ft. level to 200 ft. level at £4.10.0 per foot, inc. timber	450.	0.	0.
Drifting 500 ft. at 200 ft. level at £2.10.0 per foot incl. timber	1,000.	0.	0.
Reserve	1,671.	0.	0.
TOTAL	7,000.	0.	0.

1448 Respondent's Exhibit 24. Estimate of capital necessary for development of Ubib Properties.

VULCAN COPPER MINES

UBIB PROPERTIES.

Capital Necessary for Development

Prospecting Equipment:

	£	S.	D.
A. Hoisting Plant:			
2 light steel head frames portable	70.	0.	0.
½ in. wire rope 400 ft.	10.	0.	0.
2 hand winches 15 cwts. direct pull	25.	0.	0.
6 buckets (Iron £5)	30.	0.	0.
B. Traming Plant:			
4 cars at £20	80.	0.	0.
500 ft. Rails 16 lb. 20 gauge sleepers, frogs, etc.	50.	0.	0.
C. Blacksmith Shop:			
Forge, anvil, tools	20.	0.	0.
Picks, shovels, jumpers, bars	15.	0.	0.
Miscellaneous tools	10.	0.	0.
Dynamite, Fuse, Detonators	30.	0.	0.
Acetylene lamps, carbide	7.	0.	0.
D. Construction:			
Corrugated Iron 1 ton	25.	0.	0.
Angle Iron Nuts & Bolts	8.	10.	0.
Timber for framing	15.	0.	0.
Cement—2 tons	12.	10.	0.
Water tanks—2000 gals	20.	0.	0.
E. Transport:			
Light lorry 30 cwts.	175.	0.	0.
Petrol and spares	75.	0.	0.
TOTAL	677.	0.	0.

1449

	£	S.	D.
Brought Forward	677.	0.	0.
Prospecting:			
Sinking 2 prospecting shafts on lode to 100 ft. level inc. timber £4 per ft.	400.	0.	0.
Drifting on Lode 500 ft. at £250 per foot	1,250.		
Balance for reserve	173.		
TOTAL	2,500.		

1450 Respondent's Exhibit 25. Pearson's report on Otjisongati Extension to the Pretoria Mining Estates Company, Limited.

LOCATION.

This property is situated 45 miles due East of OKAHANJA 60 miles N. E. from Windhoek and 30 miles north from SEEIS a station on the Windhoek Gobabis Railroad. A road exists to this station which is suitable for motor transport.

GENERAL DESCRIPTION.

The property consists of 4 claims having an area of 6,000 by 3,600 ft. It is an extension upon the South East of the famous Otjisongati and Stanley Group. It is located upon a high rolling Plateau at an elevation of 6,000 feet. This plateau has a number of Koppies upon which the outcrops occur. The Stanley Group has produced many thousands of tons of High Grade Copper both Native and Sulphides. It was for a number of years the greatest producer of Copper ore in this portion of S. W. Africa. The then German authorities closed the property during the late war. The extension takes in practically the whole of the lodes worked upon the Stanley and Otjisongati.

LODES AND SURFACE WORKINGS.

Upon each of these claims extensions of the Stanley group have been discovered and the strike N. W. by S. E. proven to be continuous. The surface work consisting of costeans cross cuts and shallow shafts has been carried out to prove this continuity.

The result has been eminently favourable a number of lodes have been picked up all of which are obviously extensions of the "Stanley" and "Otjisongati" Group.

CHARACTERISTICS.

I have for the past 5 months employed as prospector and supervisor a late employee of the Stanley who was for many years in their employ as Mine Captain. He is therefore thoroughly conversant not only with the district but also with the immediate conditions.

GEOLOGY.

The general geological conditions are metamorphic schists with Amphibolite and altered Serpentine. The ore usually occurs in lenses at or near the contact of these differentiated Metamorphic rocks usually in a silicious matrix but occasionally associated with Feldspar.

There are characteristic cross lodes which in all probability act as feeders as it is at the junction of these cross lodes with the main vein system that the richer ore bodies occur.

WIDTH OF LODES AND NATURE OF CONTENTS.

As far as determined by the surface exploratory prospecting carried out the lodes vary in width from 2 to upwards of 8 feet and the various minerals are of a secondary enrichment character. They consist of Chalcolite Bornite and Chalcopyrites. The Copper contents of the adjoining Mines vary from 30% to as much as 65% in the chutes or lenzes, but the value of the lodes over the payable sections may be estimated at about 7 per cent. Copper with 3 dwts. gold and the same set of conditions should apply to your claims. So far aside from the most important evidence of continuity and strike "Vide" Stanley reports, there is at present not sufficient work to definitely state values at depth but considering the Stanley group on the same strike as a criterion the ore bodies should become increasingly richer as depth is gained down to the 225 feet level which in the Stanley is still in high grade ore.

CONCLUSIONS.

I recommend the continuance of the prospecting and development work upon this group together with the sinking of a shaft on No. 3 claim which is in a direct line and upon the strike of both the Stanley and Maygift Claims there are strong indications that when depth is reached there will be encountered some of the rich lenses of ore which made the adjoining properties famous.

The costs of this work will not exceed £150 per month in all about £1,000. The result should be high grade Copper Gold Ore sufficient to pay for these developments and yield a profit for the payment of further work.

With the completion of this preliminary development the outlay for the full mining and development plans can be more

economically taken in hand at the same time arrangements for a large tonnage output as the geological conditions of the lodes appear to be identical with those of the Stanley Group justifying the existence of a regular copper producing and payable mine being developed on this group of claims.

Messrs. Wecke & Voights of Windhoek S. W. Africa have supplied me with the under-mentioned statement of ore shipped to Hamburg which confirms my preceding report.

COPY OF ACCOUNT SALE of the S. S. "ARNOLD AMSINCK" here received and on account of the OTJOZONJATI MINEN SYNDIKATE G.m.b.H. Windhoek sold:—

2,087 bags Copper-ore.

VK—*1,424 bags Copper-ore* weight on Quay *71,392 kg.*

Analysis of the foundery	25.30%	
Our Analysis	25.89%	
Arbitration	25.86%	
Average	25.875%	
Weight of ore	gross	71,392 kg.
Tare 1,424 bags each 700 gramms		997 kg.
	net	70,395 kg.
Humidity 1.45%		1,021 kg.
net dry		69,374 kg.

each 25.875%—17,950.5 kg. Copper
M 115.25 per % kg. M.20,687.95

VF—*452 bags Copper-ore* weight on Quay *32,592 kg.*

Analysis of the foundery	28.60%	
Our Analysis	28.42%	
Average	28.51%	
Weight of ore	gross	32,592 kg.
Tare 452 bags each 690 gramms		312 "
	net	32,280 kg.
Less humidity 0.08%		26 "
net dry		32,254 kg.

each 28.51%—9,159.6 kg. Copper
M 115.25 per % kg. M.10,597.93

VB—*211 bags Copper-ore* weight on Quay *10,591 kg.*

Analysis of the foundery	24%	
Our analysis	23.63%	
Average	23.815%	
Weight of ore	gross	10,591 kg.
Tare 211 bags each 740 gramms		156 "
	net	10,435 kg.
Less humidity 2.83%		295 "
net dry		10,140 kg.

each 23.815%—2,414 kg. Copper
M 112.25 per % kg. M.2,710.61
Sweepings—11 bags gross 551 kg. sold M.153.70 M.34150.19

Forward

Brought forward M.34,150.19

CHARGES

Freight from Swakopmund to Hamburg			
VK 1,424 bags 71,392 kg. M.15.—per 0/00 kg.		M.1,070.90	
VF 452 " 32,592 " " 15.— " " "		" 488.90	
VB 211 " 10,591 " " 15.— " " "		" 158.85	
Sweepings 551 " " 15.— " " "		" 8.25	
Quay charges 115,126 " " —.30 " " "		" 34.55	
Quay weighing charges 6 Pfennig per %. kg.		" 69.30	
" " on empty bags (tare)		" 1.50	
Stamps		" 4.50	
Mixing ore for analysis		" 97.95	
Repair of bags, new bags etc.		" 24...	
11 bags for sweepings		" 3.30	
Analysis for Humidity		" 6.3	
Analysis Dr. Gilbert		" 36...	
Insurance M.34,695..... ¼% and stamp		" 93.70	
Commission 1½% of M.34,150.19		" 512.25	
Postage Telegrams Exchange		" 15...	
Cable to Windhoek		" 8.35	M. 2,633.30
			M.31,516.89

Statement showing:—

(1) Proportion ore exported to ore raised i. e. an average of 1 ton to 3½ raised the value of exported ore being 24% and 26% 32% and 34%.

(Signed) H. Brian Pearson
March 2nd. 1930.

To.—
Pretoria Mining Estates Coy Ltd.

1451 Respondent's Exhibit 26. Plan of the Otjisongati Extension.

1452 Respondent's Exhibit 27. Report of Stenhouse on Gael property.

SITUATION.

The property is situated in the Makoni district of Southern Rhodesia, the nearest point to the rail head being odzi Station, distant from the mine approx. 10 miles on the Tsungwesi road. The township of Odzi is on the main Beira Salisbury route being distant from Beira approx. 220 miles. The nearest large town is Umtali on the Eastern border of Rhodesia through which passes the railway line to Beira.

It will be noted that in comparison with other Base Mineral properties in Northern Rhodesia the distance to the shipping port of Beira from the mine is a very favourable factor, the saving in freight alone being an enormous reduction in the working costs incurred by other mining propositions. The rail rate from Odzi to Beira per ton of ore concentrates being 12/-.

The accompanying geological sketch map shows in red ink where a road can be made from the mine to the rail head at a point nearer than Odzi, decreasing the distance to approx. 6 miles. Part of this road is already constructed. The remainder would require to be made.

FUEL.

In the early stages of the working of the property no doubt a Pioneer plant would be erected with approx. 100 H.P. available. The plant most suited to local conditions would be Suction Gas. For this purpose and all other mining purposes such as fuel, timbering the mine, and providing slabs for bins etc., there is abundant timber to be obtained free of cost with the exception of cutting and transport as the hills in which the mine occurs are densely covered with heavy timber.

1453 WATER.

Running through the property close to the compound and main camp there is a permanent stream of good water. At a distance of about two miles from same within the claims there is a further supply of water. Again in the need of additional supplies there are several other sources from which all the water that could possibly be desired can be drawn within a reasonable distance.

POWER.

In the event of the property proving, as expected, to be a large deposit of fair average grade of ore very cheap working costs are ensured owing to the proximity of the Odzi River providing facilities for the erection of a Hydro-Electric Plant. The point of power is the Odzi Falls, the water being so plentiful that only one section of this river has been surveyed and measured by two independent engineers. Their estimates for the power available calculated on the basis of the year with the season's lowest rainfall, based on rainfall statistics over a number of years, there is computed to be from 1000 to 1300 H.P. obtainable. The distance across country direct form the mine to this point is reckoned to be approximately 11 miles.

AREA.

The claims extend approx. for a distance of 3 miles embracing from end to end values covering gold, silver, copper and lead. These occurrences have not been proved to be continuous and may be assumed to take the form of lenticular masses the size of which can only be proved by development.

1454 PHYSIOGRAPHY.

Reference to the accompanying sketch will show the mountainous nature of the country extending for approximately 60 miles into Rhodesia from Portuguese East Africa. The writer has visited every part. Very favourable mining conditions exist as the lodes in most cases can be worked by means of adits commencing at the foot of the mountain.

An estimate of the height of the average hills comprising the claims would be 400 ft. vertical this being based on the conditions arising on block No. 394 which actually covers that figure. There are higher hills in the vicinity but this need not be considered as the lead occurrence does not, so far as is known, exist outside the actual area pegged. It should be noted as a favourable feature that the line of strike where the deposit occurs can be traced throughout the whole length of the claims 3 miles in the form of a continuous quartzite outcrop this appearing as on the ridge.

DEVELOPMENT.

The particular workings are on block 394. A very large amount of work has been done in the first instance an adit was put into the hill 50 ft. from the summit, which takes the form of a ridge with a bluff like nature, this consisting of a lead ferrugenous gossan in which occur massive lead oxides assaying over 60 P.B. the other part being highly impregnated with lead oxides.

As stated an adit was put in 50 ft. below the outcrop for a distance of 60 ft. into the hill cross cutting part of the lode, the assays on which averaged from 3% (this being the lowest) to 13% this being the highest with an average of nearly 7% P.B. The samples were taken by Mr. Pattison, Assistant Engineer to the Gold Field Dev. Co. Ltd., Bulawayo Office.

1455 Development Contd.

This sample was not taken with any view of submitting the property to the Company but rather in order to satisfy his curiosity and also as he was anxious to have an opportunity of visiting the place at some future date when the owner considered sufficient work was done.

Within this adit, about midway, a vertical winze was sunk to a depth of 70 ft. The lode dips between 60 and 65 degrees to the North. At the foot of this winze a cross-cut was then carried a distance of 200 ft; Over the whole distance lead values were disclosed, in some places seams of solid galena of 86% lead were encountered, at other places the lead was finely disseminated throughout the rock, and also one poor zone which would be more than counter balanced by the very high values seen elsewhere. In addition to this work at this depth two drives have been put in on the strike, in one of which high values were found, and in the other exceptionally high values, owing to the solid nature of the galena.

On the surface to the east of the adit previously mentioned a prospecting shaft was sunk to a distance of 25 ft., from which was obtained 3½ tons of pure galena, i. e. about 86% lead.

In addition to the above two other adits have been put in on the surface a distance away from the centre adit neither of which contain the same high values, as it would appear, that on the surface the lead takes the form of a crescent conforming to the lenticular nature of the occurrence referred to previously.

The owner decided, having proved the encouraging nature of the occurrence that all work on the surface should cease, and an adit be driven from the foot of the hill to the heart of the deposit with the ultimate intention of exploratory
1456 development work being effected from this central point and also having in view that this adit in future would become the main point of delivery of ore from the mine. The owner drove this adit into the hill a distance of approx. 400 ft. At this stage a Company took the property on option. As will be noted in the Report by the Government Geologist he refers to the work that was effected thereafter. From the plan of the mine it is quite obvious the work done could not have been performed with less chance of success had it been deliberately intended to prove that the values were poor or non existant. As will be noted that the zone where the values were likely to be reached, and in fact were reached (a part assaying 16% lead was met with), then the adit was deflected evidently in error by the company, and carried on in a contrary direction to that intended by the owner. This is quite obvious from the plan, and referred to by the Government Geologist in his report to the Government.

ANALYSIS.

Complete analysis has been made where proved there is no dileterious mineral in the ore.

FUTURE OF THE MINE.

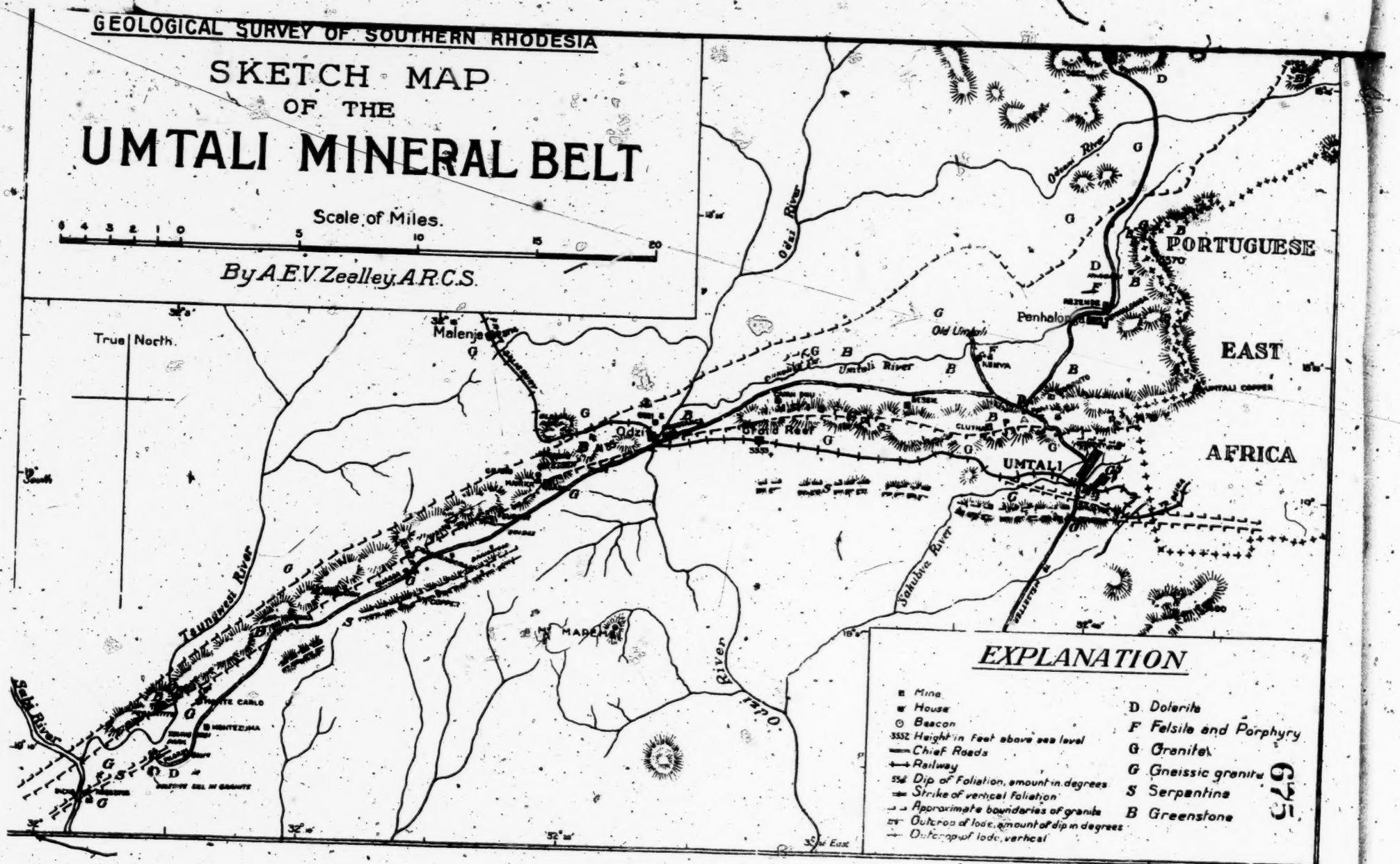
The policy considered necessary is the continuance of the adit towards the centre of the main lode, cutting both the south and north lodes, as until such time as this is done the values of the deposits will not be proved. The results so far at depth are highly encouraging there having been met in a winze in the adit deposits of copper and lead. The estimated width of the occurrence has been dealt with by the Mining Geologist in his report, and also his opinion is expressed that "It is certainly within the category of a
1457 fair risk for a prospecting Company to explore the North Lode at depth."

Since the above report was written the Owner has proceeded with operations at depth the adit to the North Lode now having been driven in to a depth of approximately 700 ft., leaving an estimated 500 ft., to be done to cut through

the South and enter the North lode. During these developments it has become abundantly evident from the ore met with that the body at depth will attain a higher percentage of Copper as well as Lead, Sulphide of Copper becoming more abundant as work progresses. It can easily be safely assumed from further evidences disclosed that the lode will be much richer at depth.

Taking into consideration the enormous width of the body which has been proved in the upper workings in the North lode to exceed 200 ft. Also in view of the Geologists forecast of the two bodies south and north being one at depth, would give a total width of over 700 ft., thus covering enormous tonnages of ore being Lead and Copper, within all probability a fair percentage of Gold and Silver, as these two minerals are associated with Lead and Copper throughout the district.

It is interesting to note that the Copper values obtained on a contiguous property on the same strike has produced ore of an average value of 11% Copper, this figure being from actual mining returns of ore smelted.


GEOLOGICAL SURVEY OF SOUTHERN RHODESIA
SKETCH MAP
OF THE
UMTALI MINERAL BELT
Scale of Miles.
0 4 3 2 1 0 5 10 15 20
By A.E.V. Zealley, A.R.C.S.
True North.
Malenje
Old Umtali
Penhalonga
PORTUGUESE
EAST
AFRICA
Umtali River
Odzi River
Odzi
UMTALI
Tanganwesi River
Sabi River
Sabukwe River
Lapo River
EXPLANATION
Mine
House
Beacon
3552 Height in Feet above sea level
Chief Roads
Railway
55d Dip of Foliation, amount in degrees
Strike of vertical Foliation
Approximate boundaries of granite
Outcrop of lode, amount of dip in degrees
Outcrop of lode, vertical
D Dolerite
F Felsite and Porphyry
G Granite
G Gneissic granite
S Serpentine
B Greenstone
67 51

1459 Respondent's Exhibit 28. Map of the Chartered Company of Rhodesia.

1460 Respondent's Exhibit 29. Pearson's report to the Pretoria Mining Estates Limited, on the Neardy Mine, Southern Rhodesia.

LOCATION.

This property is situated approximately 12 miles in a S. W. direction from the Railway Station at Odzi which is upon the direct line between Salisbury and Beira, from the latter Port it is about 250 miles distant.

SURFACE EXTENT OF PROPERTY.

The Neardy claims proper comprise 5 Base metal blocks and form a rectangular area 4500 by 3000 feet the longer distance being East and West.

The Bonza claims 3 blocks H. B. P. which are included in the total area on the Eastern and Western ends brings the total distance along the mineralised zone up to roundly 19000 feet or over 3 and one-half miles along the run of the lodes.

PHYSIOGRAPHY.

The surrounding country consists of more or less eroded hills and valleys, often very abrupt declivities occur. These Hills range from 300 to upwards of 600 ft. above the Granite plains to the North and South. They are heavily timbered and all timber for mining purposes is obtainable upon the property. Strictly speaking they are apparently outlines of the much higher ranges to the Eastward across the Portuguese border.

GENERAL GEOLOGY.

The Rocks of the surrounding district are highly metamorphosed Schists of various types "Amphibolite" predominating.

These Rocks are intersected by Dykes of various Granatoid Rocks, which intruded at a later date than the uplift of the Basement Schists, Banded Ironstone, Greenstones and Serpentine occur in both primary and highly altered masses.

GEOLOGY—NEARDY.

The characteristic Rocks exposed up on the Group of Neardy and Bonza Blocks are practically similar to the generalised system, with the exception that Banded Ironstones and highly metamorphosed Quartzite occur in a continuous

strike in an East to West direction (that is along the strike) over the entire group and it is in close association and along the contacts of these massive series that the ore bodies occur.

The whole of the Banded Ironstone and occasionally the Quartzite contain more or less continuous lenzes of ore-bearing material, which are evidently of deep seated origin. These Dykes or Infillings can be traced for many miles over other properties which have produced and shipped Gold, Copper, Lead and Zinc. The Neardy Group occurs in what may be called the central portion of this mineralised Belt or Zone which extends for many miles both Easterly into the Portuguese Territory and Westerly in the direction of Salisbury S. Rhodesia with a varying mineral or rather metal contents, all the ordinary metals being represented in some portion or at some point or points along the strike of the Dykes, in other words Mineralisation is definite for some miles along these altered rocks.

NEARDY WORK.

The greater portion of the work on these properties has been carried out on the Northern Neardy Block, R. N. 394, upon this Block outcrops of Ironstone Gossan, Quartzite and Felsite are most prominent particularly two which are known as the North and South Lodes which are about 200 ft. apart. The discovery of values upon these lodes was primarily made upon the South East side near the crest of the hill or Koppie and at about 300 ft. above the valley level. Along the strike of the North Lode a number of crosscuts were driven which upon the accompanying plan are designated as adits, also a number of shafts were sunk. Aside from the Deep Level adit or crosscut the number of adits driven was 10, the number of shafts sunk, including those upon the deep or low level adit is 9 of which 3 are upon the South Lode and 6 upon the North Lode.

In the aggregate this represents a large amount of prospecting and development aside from the low level adit. This adit which has been driven to intersect the 2 lodes at depth (approx. 375 feet below the crown of the hill) has now a length of upwards of 780 feet. Ventilation is obtained from two shafts one at 250 ft. and one at 500 ft. along the course. The whole of this is as previously stated shown upon the plan.

The objective of this deep level adit is to cross cut both

the South and North lodes in sequence at depth the striking of the 2 lodes at this depth will give a huge tonnage of ore. It has now reached a point close to the contact of the South lode with the amphibolite Schist wall and at its face it is in disseminated pyritiferous Breccia which evidently represents a phase of the contact at this point. The appearance of these Sulphides is coincident with values which at this station are low but Gold and Copper bearing. (Note that this adit has not yet encountered the true lode or Reef material). This is explained by the probably slight alteration in dip of the 2 lodes, this alteration is characteristic in the case of dominant lodes of this type.

Values Encountered.

In the upper crosscuts and shafts notably upon the South Lode massive Galena has been mined and shipped. This Galena carrying 78% Lead and Gold and Silver in addition.

Upon the North Lode especially within the "Gossan" Ironstone good values in both Gold and Copper have been found. The Gold and Copper ores in "Gossan" is a marked condition of all Ironstone lodes in this portion of S. Rhodesia. At the Horizon where the Galena was mined it is not usual to find Copper Gold ores unless as before stated they are found in the Gossan as Copper Carbonate and Free Gold. The objectives of the deep level "lower adit" is undoubtedly to crosscut the lodes at a depth where the Secondary enrichment values are prominent and at the same time develop a very large tonnage of ore in the backs of both lodes. As values both in Gold and Copper are found in the face of this adit the work is thoroughly justified.

Recommendations for Future Development.

From the examination I made of this property I am satisfied that future development should take place from the Lower adit, a further 700 ft. should crosscut both lodes at depth and future development and blocking out of ore becomes more economical more especially when raises are made to the shallow shafts upon both lodes. Ventilation will offer no difficulties considering that compressed air will undoubtedly be used, there are now two shafts upon this adit both of which are available for this purpose.

DISTANCE TO NORTH LODE, FROM PRESENT FACE.

The distance to be driven to intersect the North Lode will not exceed 700 feet and in all probability less, but as a safe figure this represents the maximum, little or no timbering will be necessary until the lodes are encountered as the ground up to the face is fairly hard and stands well in fact the adit is quite clear of any falls whatever.

PLANT REQUIRED FOR THIS WORK.

The plant necessary for this work should not exceed in Prime Costs £1500.

The working expenses inclusive of Native wages, White supervision and all necessary Powder, Fuse and Fuel for internal combustion compressor will approximately be £350 per month.

The rate of Driving while variable and dependent upon the rock encountered should be about 225 to 250 ft. per month. The whole costs of this work should not exceed £2500 or as a maximum £2750. The whole of the adit can be driven in three and a half months from the time the plant is laid down. When necessary a supplement to this report showing analysed costs will be submitted.

CONCLUSIONS.

I have carefully examined the conditions obtaining upon this property not only from the standpoint of a Base Metal or Metals producer but also as a potential Gold, Silver property and I have arrived at the conclusion that the work I suggest is under the circumstances not only justifiable but decidedly advantageous to any Company who wish to acquire a partially developed property which has so far been proven to be producing values from shallow workings and which with the very small additional capital necessary should produce much higher values at the depth encountered in the low level adit.

May I direct your attention to "Southern Rhodesia Geological Survey" Bulletin No. 13 which contains a report by F. E. Keep M.Sc.A.I.M.M. Mining Geologist etc. who in 1928 spent over a week in an examination of this property for the South Rhodesia Government.

In this report Mr. Keep points out that it is possible that the 2 lodes referred to may be really one lode having the width of about 200 feet.

The continuation of the low level adit should definitely prove this.

In conclusion I may state all the available evidence points to the fact that when the development of the property has been completed that it will prove to be one of the largest mines on this belt.

(Signed) H. BRIAN PEARSON.

1461 Respondent's Exhibit 30. Report by Morris on the Gael Blocks.

On the Gael Block registered No. 2010, quite a fair amount of work has been done, and at No. 1 Shaft the reef was cut at 70 feet, giving an assay value of over 5½ per cent copper over fully six feet. No assay of gold was taken, but free gold was found in the panning dish, and specks of visible gold were seen at times in some samples.

Geophysical surveying was done on several blocks of this section two years ago, and reported strong mineralisation results at a depth of 175 feet at several points with an estimated thickness of 12 to 14 feet which corresponds with the heavy outcrop of ironstone gossan. As on the Crescent this portion of the outcrop only shows a little copper carbonate now and again. Two prospecting shafts were sunk at points suggested by the electrical engineers, but water was struck at 60 feet before the copper zone was reached, and a steam pump would have to be installed before further sinking could be done. Undoubtedly the Gael claims are practically the same formation as the Crescent.

By sinking further on No. 1 Shaft of Block No. 2010 for another 40 or 50 feet the values should rapidly increase, as they did on the Crescent.

From experience on these reefs in this district for the last 18 years, I am confident that the Crescent valley copper lodes will prove one of the richest mining investments in Southern Rhodesia.

Taking into consideration that there are 10,000 tons of ore dumps which as I have pointed out can be rough sorted down to 5,000 to 6,000 tons, so as to raise the grade to say 7 per cent copper, and over 3 dwts. gold lying at grass on the Crescent claims, (and from these dumps 400 tons were picked and sent to the Falcon Mine, which realised from copper and

gold £40,000) all goes to prove that there is no gamble in this venture.

1462 I am strongly of opinion that the Gael Blocks should be worked in conjunction with the Crescent Mine, they adjoin and are in the same formation.

With a 50 ton per day Water Jacketed Furnace, dealing with the dumps alone, all development expenses would be paid and a handsome profit would be left until the Crescent Main Shaft was reconditioned, and the Gael No. 1 Shaft sunk to the 100′ level, after which the high grade ore procurable from both of these propositions would raise the profits very considerably.

I consider the net profits per ton of ore smelted, averaging 7 per cent copper and 3 dwts. gold, with the 50 ton per day furnace, to be from 25/- per ton, taking copper at £45 per ton which figure is much below the normal price of copper.

SALISBURY,
25 July 1930

(sgd.) J. A. MORRIS.

1463 Respondent's Exhibit 31. Pearson's report on the Gael Property.

Dear Sirs,

THE GAEL PROPERTY.

In compliance with your instructions I have to inform you that I have examined the Gael Blocks Copper Property and beg to report as follows:

SITUATION.

The property is situated in the Lomagundi district in Southern Rhodesia and is distant from the railway siding on the Sinoia Kafue Railway about 22 miles. This is the main line to the Port of Beira, Salisbury, and Bulawayo.

AREA.

The property consists of five full sized Blocks of Base Metal Claims. Each block approximately 1000 by 500 yards in superficial area. The strike of the outcrop of the lodes which are clearly defined and contained within these boundaries will

be about two miles in length and as the blocks are in two instances double banked or side by side, the width will at those points exceed 1200 yards.

General Characteristics.

The Blocks are located upon the sides of and over Kopies which rise to an average height of 300 ft. They are upon Crown land. There are roads and tracks over the greater portion of the area which is fairly heavily timbered outside the "Vleis" and valleys. These roads and tracks are now used for motor transport and are generally in good condition.

History Ancient Workings.

These lodes similarly to many others in Southern Rhodesia were originally located upon ancient workings and as far as ascertainable these ancient miners worked mainly for Gold which occurs more or less freely in the surface outcrops (and consequently quite aside from the more modern development of the ores at depth with their high grade Copper values). The Gold values upon the surface must have warranted what is in the aggregate a very large amount of trenching and shallow sinking.

Time on Property.

This property was first examined by me on July 26th 1930, and following days—since that date, however, I have been upon the Blocks a number of times up to and including November 1930.

General Description of Ore Bodies.

The ore occurrences are found in a series of parallel Ironstone Gossan Reefs which have apparently extruded from the country rocks which are highly metamorphosed schist and limestone, of these mineralised lodes there are a number not yet developed. Three of them, however, have had shafts sunk upon them. In each instance while only Carbonate of Copper was visible on the surface, (the ore having concentrated below) values both in Gold and Copper can now be found upon the spoil dumps and heaps. The reef croppings which are exposed have a width of, in some instances, as much as 15 ft. and can be traced along the strike for 2000 yards. At various points along their courses visible evidence of mineralisation is apparent, and pannings of free Gold can be obtained from the Ironstone.

MODERN DEVELOPMENT.

During the period immediately preceding the war and for some time during 1915-16-17 the property was developed and worked by a number of shafts, seven with an average depth of 50 ft. and one which is designated the main shaft to a depth of 75 feet. In this main shaft the ore was developed by short drives North East and South West following the general strike of the ore bodies. At this time a small smelter was working upon the ground and the high grade ore was converted into Matte Copper on the property and shipped. A considerable amount of slag now remaining evidences this fact. Towards the close of this period of working shipments were made to the Falcon Smelter; lack of capital during the war period was responsible for the discontinuation of the work.

Following the war period a Geophysical survey was made upon portions of these blocks. This survey gave definite evidence of mineralisation at 175 ft. in depth at several places along the strike with an estimated thickness of from 12 to 14 feet. This agreeing with the general width of the outcrops. Following this survey two shafts were sunk to the 60 ft. level where water was struck necessitating the installation of pumping machinery.

WIDTH OF ORE BODIES AND DEPTH OF SHAFT.

In No. 1 Shaft the Reef was cut at the 70 ft. level, it was upwards of 6 feet in width and gave an average over this width of 5½ per cwt. Copper, with varying values in Gold, these values were reported to be from three to four dwts. in a free condition. I have made pannings and check assays. It was from this shaft that a considerable proportion of the ore both smelted on the property and shipped to the Falcon Smelter, was obtained. In Nos. 2 and 3 shaft 60 ft. in depth work ceased on account of influx of water before the ore zone was reached. These shafts, however, are all in the Gossan upon the same strike and similar to that found upon the surface, they also produced a certain amount of ore during the sinking period.

DUMPS.

There are a number of dumps at the various shafts but the chief dump is at No. 1 shaft, this dump consists of about 1000 to 1200 tons low grade ore, 3½% to 4% Grab samples

sent by me for assay from the spoil gave 3% Copper, 2 dwts. Gold. Picked samples gave much higher returns. Surrounding the other shafts are also dumps which in the aggregate will bring the tonnage now upon the surface to approximately 3000 tons. The greater proporton of this will pay for concentration and shipping. It should here be noted that the values now upon the dumps do not by any means represent the value of the ore when raised. As previously mentioned the whole of the high grade ore was hand picked and either smelted or shipped.

General Deductions.

From my visits to this property I have arrived at the conclusion that further development work on these Blocks, which are in one compact series should be put in hand at once, and the installation of the necessary plant to carry on. The ore is there both in quantity and payable quality; even with copper at its present low price. Plenty of timber can be obtained upon the property for underground uses where necessary and the water question which in Africa is so often a drawback, does not exist, sufficient water is easily and economically obtainable for all reasonable development and for the working of a concentration plant.

One other point which I have not touched upon earlier in this report is—That this is not an isolated occurrence of mineralisation. The ore Belt or Zone has been proven to extend for over 50 miles in length, and upwards of 30 miles in breadth and numerous other properties have produced both Copper and Gold within this area. One of these properties which is situated on the South East side of the Belt "The Alaska" which is now working, is daily producing Copper and has done for a number of years.

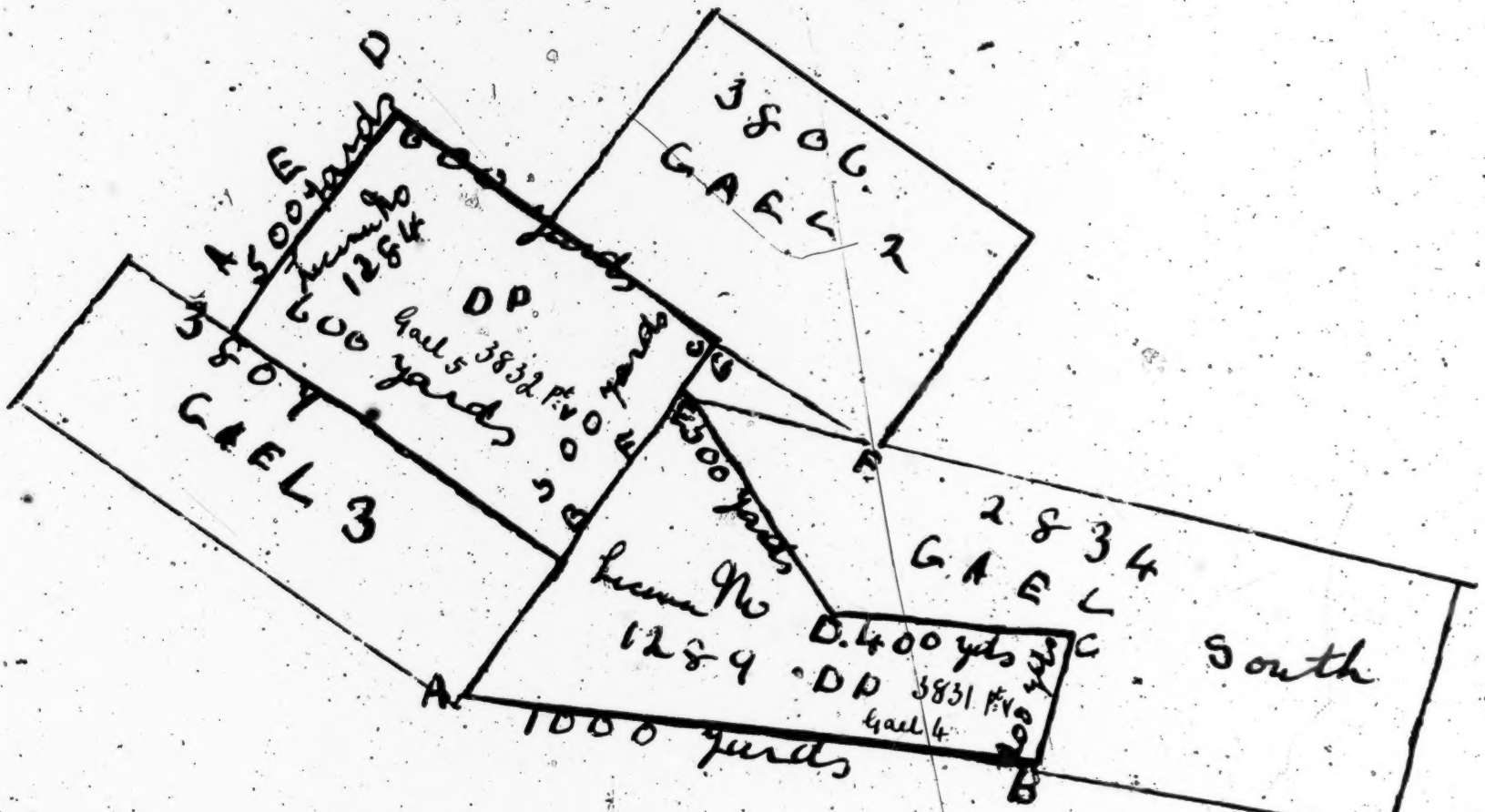
Plant Requirements.

The immediate requirements in plant inclusive of pumps etc. should not exceed £5000. This sum properly expended should not only develop an ore reserve but should produce at the same time a marketable type of ore or a reserve for future concentration and, if necessary, reduction to Matte Copper immediately upon the spot.

I am preparing working plans and obtaining estimates for the erection of head gear and power hoisting, plant etc.

which will be forwarded to you in due course. I have now had the opportunity of thoroughly examining this huge belt and am greatly impressed with its future as a Copper and Gold producer.

(Signed) H. BRIAN PEARSON.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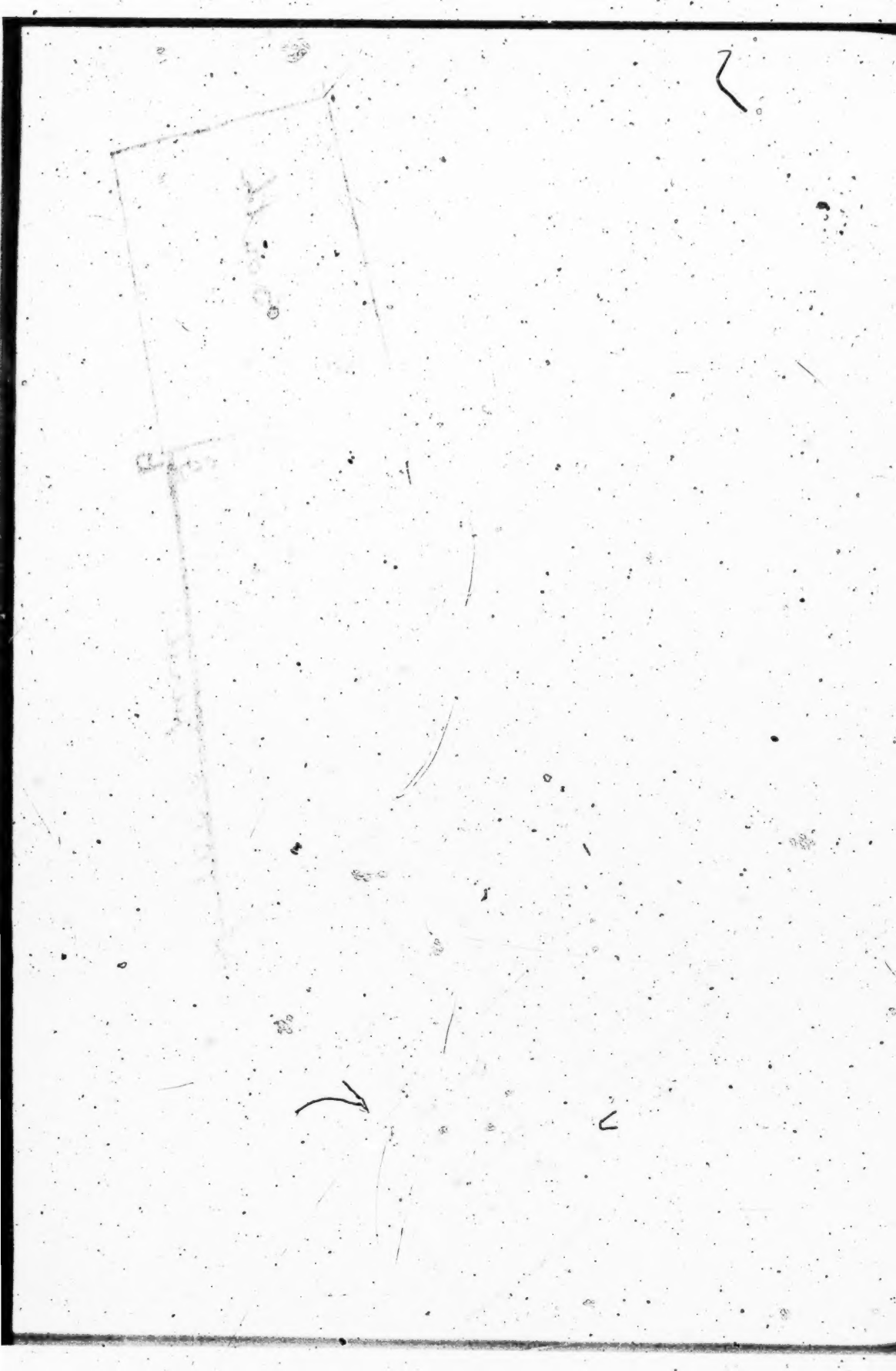
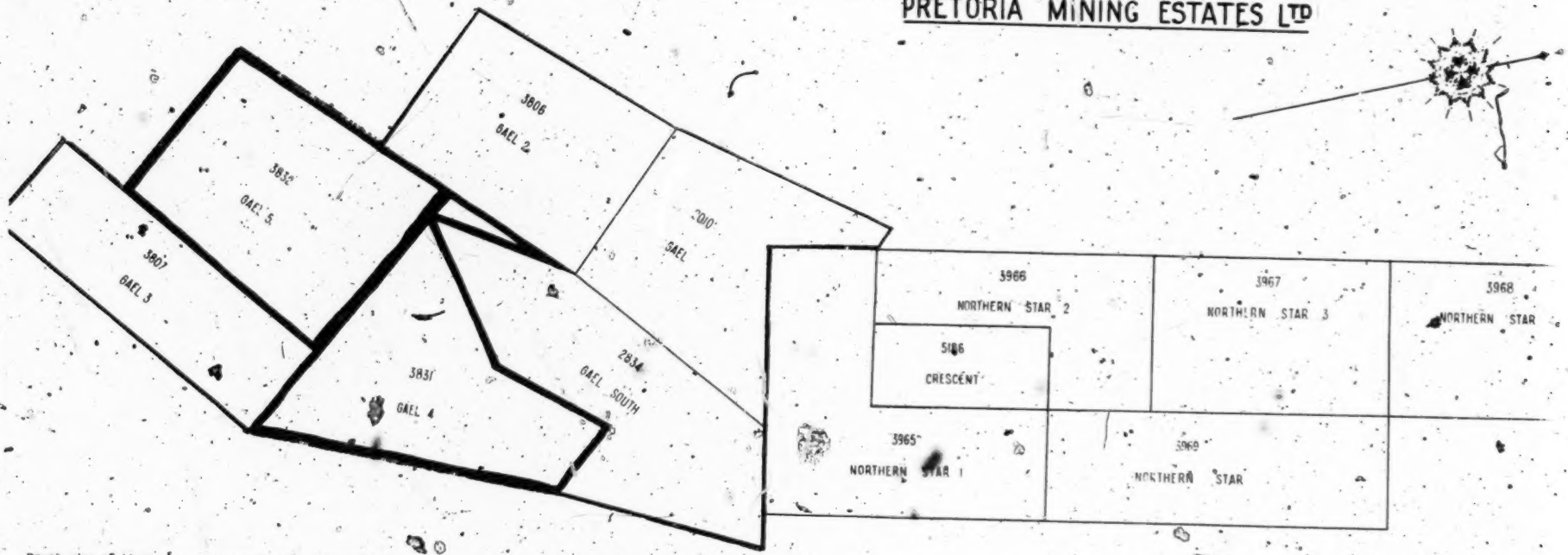


1464 Respondent's Exhibit 32. Rough plan of surfaces of Crescent and Gael. Prepared by Pearson and the mining authority at Salisbury.

PERMANENT INVESTMENTS LTD.
— AND —
PRETORIA MINING ESTATES LTD



Rough plan of blocks round Crescent Mine compiled from sketches lodged on registration.
Not guaranteed accurate.

675

1465 Respondent's Exhibit 33. Geological Survey Bulletin No. 13, of Southern Rhodesia, issued by authority of said Government, (pages 66 to 76 inclusive).

IX. Report Upon the Neardy Mine, Makoni District.

Preface.

Acting under the instructions of the Director, Geological Survey, the writer paid visits to this property in July, 1927, and April, 1928, a total period of nearly a week being devoted to as thorough a study of the ore occurrence and geology as circumstances permitted.

Location.

The Neardy Mine is situated at a distance of about ten miles south-west by west from Odzi railway station, Makoni District, and is reached by means of a branch road nearly three-quarters of a mile long, which leaves the main Odzi-Pilgrim Mine road a short distance south-west from the old Surrey Mine.

Extent of Property.

The Neardy claims comprise five blocks of base metal claims forming a rectangular area stated to be 4,500 feet by 3,000 feet, the greater distance being in an east and west direction. Abutting upon the two most northerly blocks, on their eastern side, is the most westerly block of claims of three blocks known as the Bonza, there being a further block, the Shamrock, to the east of the latter. Each of these four blocks is said to be 2,200 feet by 1,200 feet, the greater length being in an east and west direction.

West from the Neardy claims and adjoining them are three further blocks of Bonza claims, each block measuring 3,000 feet by 900 feet. From east to west the total length of all the blocks together is stated to be 19,300 feet, or three miles 1,153 yards.

Physiography.

The country upon which the above claims are located consists of deeply eroded hills and valleys, the former rising some 500 to 600 feet above the granite plains to the north and south of the belt of broken country which stretches from the Portuguese border in the east to the Sabi river in the west.

GEOLOGY.

The rocks exposed on the claims under review belong to the Basement Schist system, with the exception of the granite dykes found running into the rocks of that system, the dykes being younger than the rocks into which they intrude, and being, although they could not be traced on the surface to their junction with the main granite mass, most probably tongues of granite protruding from that mass.

Only two sub-divisions of the Basement Schist system could be recognized, one being the sedimentary group known as the Banded Ironstone group, the other being greatly altered greenstones and serpentines now represented in many places by amphibolites, schists and epidiorites.

Two specimens of rocks belonging to the Banded Ironstone group have been examined in thin section. In the case of a dark coloured, fine-grained rock obtained from the north lode, east upper adit, and showing banding with alternate light and dark green bands, with galena and chalcopyrite well developed along fractures, it may be seen under the microscope (slide 3432) that it consists of parallel bands of rounded quartz grains of undoubted sedimentary origin alternating with bands of chlorite, a pale amphibole and epidote, the whole being set in a siliceous matrix and showing evidence of great alteration. Magnetite dust and grains are also present both in bands and disseminated throughout the rock, which may well be named a *quartzite*. Later sulphides are seen in this specimen, their mode of occurrence being described in the sequel.

The rock encountered throughout the drive west to east winze from the lower east adit is a banded, quartzose, black, white and green rock. Under the microscope (slide 3931) it is seen to be a *quartzite* belonging to the Banded Ironstone group, composed of bands of rounded and sub-angular quartz grains and of small amphibole and chlorite individuals, together with small stringers composed of grains of magnetite crossing the quartz and ferro-magnesian bands at low angles and occurring with greater abundance when passing through the latter. No metallic sulphides are present.

The *amphibolites* occurring in the mine workings are comparatively soft, dark-green, occasionally micaceous rocks in which actinolite and/or tremolite crystals are often plainly visible. In this section (slides 3925 to 3930 incl.) they may

be seen to consist of tremolite and actinolite in acicular individuals, ragged plates and tufts, together with a minor amount of plagioclase felspar, usually albite, in the form of large saussuritized plates and fresh mosaic, the latter being invariably composed of secondary albite. Zoisite and/or biotite are present in some slides in varying amounts. Magnetite is present in all cases as an accessory. Metallic sulphides occur in certain zones in this rock.

As will be seen in the sketch section (Fig. 14B) across the belt of Basement Schists accompanying this report, the quartzite occurs in the form of bands dipping steeply to the north, the rocks underlying and overlying the sediments being greenstone and serpentine in various stages of alteration.

When following the bands of sediment along the strike, which is practically magnetic east and west, they are seen to be lenticular in horizontal section, although it is possible to walk along a continuous outcrop of quartzite for the entire length (3¾ miles) of the claims. Detailed mapping of the area, impossible in the time at the writer's disposal, would certainly show that the outcrops of the bands of quartzite split up and narrow in places, swelling out in others, and that occasionally two neighbouring parallel outcrops converge and coalesce. These peculiarities suggest complex folding of the rocks of the Basement Schist system in this area, and would in a small isolated mass composed of rocks of that system lead one to expect that its members would not extend to any great depth. In this case, however, with a belt of Basement Schists extending for fifty miles within this country and for an unknown distance into Portuguese East Africa, and with a regular south-west by west to north-east by east strike throughout the whole of the fifty miles (see Short Report No. 2, S.R.G.S.), it would be a matter of extreme surprise if any mine workings situated within the belt, and further than, say, a quarter of a mile from the edge of the belt, bottomed even the sedimentary rocks of the Basement Schist system before extreme depth rendered further mining impossible.

Mode of Occurrence and Origin of the Deposit.

Lead and copper values occur within both the sedimentary and the metamorphosed igneous rocks on this property. As far as can be seen on the surface, the deposit may be subdivided into two, (1) the north lode, and (2) the south lode,

though it is a matter of considerable doubt whether two separate lodes exist.

As may be seen on reference to the diagrammatic section (Fig. 14A), showing the mine workings, the deposits are located near the crest of a hill which rises some 380 feet above the lower adit level. As this section is drawn at an angle of about 45 degrees with the strike of the beds, the dip of the sediments, as shown, must not be taken as the true dip, *i. e.*, the dip in a direction at right angles to the strike of the sediments.

Although the contacts of the sediments with the igneous rocks dip to the north at an angle of about 65 degrees, it appears probable from a study of the ore occurrence in the lower adit cross-cut at the bottom of the east shaft that the mineralized zone itself is vertical. As yet, owing to the fact that no work has been done on the north lode at depth, it is impossible to say whether that also is vertical, or, indeed, whether there is any non-mineralized ground between the two lodes.

When the mineralized rock is examined in polished section it is clearly seen that sulphides occur throughout both the sediments and the igneous rocks in connexion with minute stringers of quartz, or of quartz and felspar, injected into fracture planes of microscopic size.

Chalcopyrite was evidently the first sulphide to crystallize, many small masses of that mineral being seen to be completely surrounded by large aggregates of galena. Slight corrosion of the chalcopyrite edges in contact with the galena is plainly visible in many cases. With the exception of a subordinate amount of iron pyrites, apparently deposited more or less contemporaneously with the chalcopyrite, no other sulphides are visible.

The evidence of the microscope, showing the association of the mineralization with the acid stringers, suggests an intimate relationship between the deposition of the metallic sulphides in their present position and the pegmatitic and felsitic dykes seen in the mine workings and on surface. It is a significant fact that visible sulphides are first noted, when walking northwards through the lower adit cross-cut, near the bottom of the east shaft (at a vertical depth of about 200 feet), in which locality the acid dykes are well developed.

As these dykes are representatives of a late stage in the

intrusion of the granite which may be seen on either flank of the belt of Basement Schists, and as it is evident that the mineralizing vapours and gases were but a later stage, it must be acknowledged that this deposit is yet another of those which owe their existence to the final stages of the granite intrusion. It may best be termed a replacement deposit, and it may be expected, in view of the depth from which the mineralization has been derived and of the probable depth to which the rocks of the Basement Schist system in this area extend, that values approximately similar to those found near the surface will extend to depth. In other words, if and when the lower adit cross-cut is extended to cut the north lode at a depth of nearly 400 feet below the outcrop, values similar to those at, say, 100 feet below the outcrop should be encountered.

In view of the fact that there is a great discrepancy between the assay results obtained from samples taken in certain workings on this property by two large companies, no attempt will be made to enter into any precise statements as to the grade of the deposit or deposits.

Mine Workings.

The major portion of the prospecting work on the claims under review has been done on the northern Neardy block (Reg. No. 394); where a bold outcrop of gossan first drew the attention of the prospector to the mineral deposit.

The North Lode.

(1) Up to the middle of 1927 the work had been concentrated upon the north lode, that being the lode upon which the gossan occurs. Latterly, however, the useful prospecting which has been done has been almost entirely confined to the south lode, as will be shown in the sequel. The gossan consists of a rusty cavernous mass, having a very high specific gravity and showing an abundance of cerussite, or white lead carbonate, together with what is probably anglesite, or lead sulphate, both these oxysalts of lead being amongst those minerals which one would naturally expect to find in a greatly oxidized lead lode. A trace of malachite (copper carbonate) and tenorite (black oxide of copper) is also present, the whole being a typical leached outcrop.

At the crest of the hill a considerable amount of trench-

ing has been done in the gossan, good values in lead having, it is stated, been obtained from the most easterly trench near the north shaft (see plan) to the small east and west trench near the north-west shaft, a distance along the strike of the lode of some two hundred feet. It is stated that 3½ tons of pure galena (85 per cent. lead) were taken from the north shaft within twenty-five feet of the surface.

About fifty feet below the top of the outcrop and at a distance of some 200 feet south from the northern contact of the sedimentary rocks with the altered serpentines, adits have been driven into the hill on a magnetic bearing of 340° these adits being three in number, known as (a) the east adit, 100 feet in length; (b) the centre adit, 200 feet long; and (c) the west adit, 100 feet long, respectively.

(a) The east adit is in lead-carrying sedimentary rocks for 94 feet, the last 6 feet having been driven in greatly altered epidiorite, most probably an old pre-mineral dyke.

Thirty-five feet from the mouth of the east adit a winze has been put down to a depth of fifty feet below the adit floor, and a considerable amount of cross-cutting and driving done. In these workings the strike of the sedimentary rocks is seen to be approximately east and west (magnetic), with a dip to the north varying between 60 degrees and 65 degrees. A considerable number of pre-mineral faults striking across the quartzite and dipping at high angles is seen on this level, massive galena up to three inches in width occurring in veins in the gouge or fault filling, which latter is heavily stained with red oxide of lead. A number of felsitic dykes, offshoots from the granite dykes mentioned previously, of no great size, also occur. These dykes appear to be older than the faults, being in all cases greatly folded.

(b) The centre adit, 100 feet west from the east adit, shows good values in the pan for 165 feet from its mouth, at which point (165 feet in) a dyke of amphibole-chlorite-schist, probably greatly altered serpentine, is met with. This dyke, which is presumably the one now present in the face of the east adit, strikes north 80 degrees east to south 80 degrees west and dips vertically, having a width of six feet. North from the dyke sedimentary rock is again encountered, lead values being present. Mispickel is also present in this section.

(c) The west adit, 100 feet west from the centre adit, is 100 feet in length, but as no assays have been made of

the lode as exposed therein and nothing of real geological interest occurs, this work at present gives little help in the elucidation of the geological problems involved in the study of the deposit.

Apart from the massive galena in the fault fissures the galena in this lode is finely disseminated throughout the body, being particularly abundant on the surfaces of the bedding planes of the quartzite and upon the slickensided faces of the abundant minute fault-fractures present. A certain amount of this disseminated product is probably secondary.

A recent working near the summit of the hill is that known as No. 6 adit, put in in a north-easterly direction for about 60 feet, as shown on the plan. There is so very little ground above this working at any point that very little information of value can be obtained from it. The rock encountered is quartzite.

At a point about 350 feet vertically below the top of the outcrop of the north lode the lower east adit has been driven from a point east from the known occurrences of ore at surface or in the underground workings. From this adit a cross-cut north has been put in for a total distance of nearly 400 feet. The first 200 feet of this cross-cut passes through alternating bands of quartzite and of amphibolite, both of which strike approximately east and west. A small dyke of micro-pegmatite is present at the southern contact of the widest band of quartzite (90 feet exposed) with amphibolite. From thirty feet south from the ventilation shaft (see plan) to the north end of the cross-cut the rock encountered is amphibolite or biotite-tremolite schist. No signs of lead values were seen in this working, which has been sited too far from the known edges of the deposit to be of definite value at this stage of the history of the property.

(2) *The South Lode* is found some 200 feet south from the north lode, adjacent at the surface to the southern contact of the same belt of sediments with altered serpentines and epidiorites. It is not yet known, and cannot be until further underground work has been done, whether the intervening ground between the two lodes is barren of commercial lead ore.

The surface indications of this lode are poor owing to its location on a terrace or ledge on the hill side, there being a large amount of mixed float at this point. Deep trenching

first proved the presence of copper, practically all in the form of malachite, the carbonate. Three shafts have been put down, as shown on the sketch plan, these being known as the east, centre and west shafts. The centre and west shafts are each 50 feet in depth, a small amount of cross-cutting north and south having been done at the bottom of each, as also at a depth of 51 feet below the collar of the east shaft. Copper staining may be seen in these workings, but there is very little promise of the occurrence of either lead or copper ore at the horizon of the cross-cuts in this, the south lode.

The lower adit has been driven at an elevation about 380 feet vertically below the top of the outcrop of the north lode and 200 feet vertically below the collar of the east shaft on the south lode (see plan). Commenced as a semi-cross-cut on a bearing of north 60 degrees west (magnetic) it was intended to connect up with the centre shaft prior to continuing to beneath the north lode at the centre of its outcrop. After having advanced for a distance of over 510 feet the adit was swung northwards and driven for a further 270 feet towards north 18 degrees west, being connected with the east shaft and the lower east adit, as shown.

Values were apparently first encountered immediately prior to the change in direction, but the largest quantity of visible sulphides noted occurs near the bottom of the east shaft and northwards and eastwards from that spot. In the lower adit the rock is all, with the exception of granitic dykes, amphibolite as previously described.

The lower east adit has also been connected with the east shaft by a drive west, which traverses banded ironstone. It is not known what width the belt of these rocks is, but it is seen to be at least 60 feet wide, being a similar sedimentary band to those encountered in the cross-cut north from the east adit. The banded ironstone strikes from north 65 degrees east to south 65 degrees west, but is cut off against amphibolite at a point some 80 feet east from the east shaft. No traces of galena were seen until the amphibolite was encountered.

Miscellaneous.

When walking along the strike of the quartzite from the Neardy Mine workings towards the western end of the blocks of claims the quartzite varies in width considerably in different parts. A large amount of prospecting for gold has been

done along this belt in the past, it being stated that values up to 30 dwt. per ton had been found in various parts of the sediments. On the westernmost claim held by the owner of the Neardy and Bonza blocks, forty feet of quartzite has been uncovered in the side of a stream gorge. Four ten-foot samples were cut from the face thus exposed, the northernmost sample giving a value of 3 to 4 dwt. over the ten feet when panned in the presence of the writer.

Near by, on a parallel belt of sediments further to the north, is located the Star Mine, which has been worked for gold in the past. In an old adit, at a point near the contact of the quartzite and altered serpentine, fine white needle-like crystals, which upon analysis were found to be magnesium sulphate (epsom salts), were noted. The ore from this mine is rich in arsenic, containing up to 49 per cent. As_2O_3, and having, it is stated, an extraction value of 7 dwt. of gold per ton.

Eastwards from the Neardy Mine, on the most easterly Bonza claim, is located the Hornet Shaft, about 50 feet in depth, sunk on a lenticle of very quartzose sediment striking north 60 degrees east to south 60 degrees west and varying up to five feet in width. The main belt of the Neardy quartzite is a short distance further north, the rocks on either side of the lenticle being serpentine altered to amphibolite and epidiorite, with some talc showing on the slickensided faces of the numerous faults. Lead and copper are found in the quartzite, but values are extremely irregular.

About two miles eastwards from the Neardy Mine is the Shamrock block, upon which a shaft has been sunk to a depth of 34 feet on a shattered belt in the sediments impregnated with quartz. The quartzose belt is exposed in the shaft to a width of at least six feet and is heavily stained with copper; galena is also present to a considerable extent. The mineralized quartzose belt dips north at 65 degrees.

Conclusions.

(1) It is obvious that the rocks, both sedimentary and igneous, occurring on these claims are greatly metamorphosed and intricately folded. As the agencies responsible for these phenomena acted prior to the mineralization, it must not, however, be considered that the deposits will suffer accordingly.

(2) In the absence of certain knowledge as to the percent-

age of economic minerals present in event the opened-up portions of the deposits, no opinion as to their probable future can be given until such workings are carefully sampled and assayed. It is, however, evident that until the lower adit cross-cut has intersected what will most probably be found to be the main deposit, the north lode, the prospects of this property becoming a valuable one cannot be gauged.

(3) A considerable amount of work has been done on these claims, although such has not been laid out to the best advantage. In preference to the drive west to the east shaft from the east adit, nearly 400 feet of work, it would have been advisable to have extended the lower adit cross-cut to beneath the centre adit on the north lode, even though such an undertaking would have occupied a greater length of time owing to but one face being available.

(4) A comparatively small expenditure should now enable the thorough testing of the property to be made, and, consequent upon values in the upper workings upon the north lode being found promising, it is certainly within the category of a fair risk for a prospecting company to explore the north lode at depth.

Geological Survey Office,
Salisbury,
11th May, 1928.

1466 Respondent's Exhibit 34. Agreement, dated August 6, 1930, between the Pretoria Mining Estates Company Limited and the Rhodesia Border Mining Corporation Limited and the Rhodesia Border Mining Corporation Limited of Rhodesia.

1466 AN AGREEMENT Made the sixth day of August One Thousand Nine Hundred and Thirty BETWEEN THE PRETORIA MINING ESTATES COMPANY LIMITED whose registered address is situated at 5, Court Row, Guernsey, a Company (hereinafter called "The Vendors") of the one part and THE RHODESIA BORDER MINING CORPORATION LIMITED of Rhodesia, a Company registered under the limited liability laws of Rhodesia and having its registered office situated at Bulawayo in Southern Rhodesia and a branch office at 80a, Coleman Street, E.C.2. in the City of London (hereinafter called "the Corporation") of the other part, Whereas the Vendors are possessed of or

otherwise well and sufficiently entitled to certain copper bearing properties and the Lomagundi District Copper Areas a copper mining proposition short particulars of which said properties (hereinafter called "The Scheduled property") are set out in the Schedule hereto and whereas the Corporation was formed for the purpose of acquiring and mining mineralised propositions and have agreed to purchase the "Scheduled property" from the Vendors Now It Is Hereby Agreed that the Vendors hereby agree to sell and the Corporation to purchase the scheduled property being all mining and other rights relating thereto or arising thereout on certain developed mineralised blocks of copper claims, as more fully described and set out in the Scheduled property attached hereto. The Scheduled property is sold by the Vendors to the Corporation on the same conditions and regulations 1467 as those on which it is held by the Vendors or as they are entitled thereto. The Consideration for the said sale shall be the sum of Six hundred Thousand pounds payable as to Twelve Thousand pounds in cash and as to the balance of Five hundred and eighty eight thousand pounds payable at the option of the Corporation either in cash or by the allotment of One million one hundred and seventy six thousand shares of Ten Shillings each credited as fully paid up in the Capital of the Corporation such shares to be taken as issued at their par value. The Completion of the said Sale shall take place on or before the thirty first day of October One thousand nine hundred and thirty or at such later date as shall be mutually agreed upon at the registered office of the Vendors.

The Vendors hereby agree with the Corporation that they will at all times hereafter do and execute all such further acts deeds matters and things as shall be requisite or necessary for the purpose of conveying assigning and ceding the Scheduled property to the Corporation or as they shall direct and pending such Conveyance assignment and cession and after receipt by the Vendors of the Said purchase consideration the Vendors shall be deemed to hold the said property as Trustees for and on behalf of the Corporation. The Vendors shall duly pay and discharge all legal and other expenses which may become payable in connection with the completion of the necessary legal formalities for carrying this Agreement into effect.

IN WITNESS whereof the Vendors and the Corporation have hereunto caused their respective hands to be attached
1468 hereto the day and year first above written.

Signed by the said
IRA C. OZANNE
for and on behalf of
THE PRETORIA MINING ESTATES
COMPANY LIMITED
in the presence of
Witness: A. I. Frayling,
Rouge Huis, Guernsey.

For and behalf of
THE PRETORIA MINING STATES
COMPANY LIMITED.

IRA C. OZANNE,
Director.

Signed by the said

for and on behalf of the
RHODESIA BORDER MINING
CORPORATION LIMITED
in the presence of
Witness: Jose da Camara
Leme 31 Upper Bedford
Place, W.C.1.

For and behalf of the
RHODESIA BORDER MINING
CORPORATION LIMITED

JESSE HILL,
Director.

(6d Contract Note)
Cancelled.

1469 SCHEDULE.

SOUTH WEST AFRICA COPPER AREAS.

No. 1. These claims are situated in the Otjizonjati district adjacent to Ovetoto and about 25 miles East of Okahandga. The area consists of 140 acres the Copper lode formation extending throughout the length of the property, the payability of its mineral deposits has been proved by the development work put in. The main vertical shaft being sunk to a depth of 120 feet and an underlay shaft on the lode sunk to a similar depth with level driven on the lode which averages about 26 inches in width. Samples taken from these workings varied from 3% to 17% Copper.

THE PROPERTIES OF THE COMPANY CONSIST OF:

Rhodesia Copper Areas. No. 1, situated in the Lomagundi district of Rhodesia on the well known copper belt traversing this part of the Country, upon which belt extensive prospecting and development work is taking place. The claims, representing 150 acres, have been well opened up by shafts and levels with heavily mineralised ore chutes occurring on

the lode whilst the general width of the lode is about four feet, it widens out in places up to eight feet.

As shown by the development work carried out the average values of the copper contents of the lode may be taken at 7% to 8% per ton of ore, but in places, phenominally rich copper ore is met with.

1470 No. 2. Option upon 8 Blocks of Claims in the Makoni district near the Rhodesia Border about 10 miles from the railway, these blocks having about 3 miles in length on the formation the mineralised contents embrace recoverable values covering gold, silver, copper and lead the ore bodies may be assumed to take the form of lenticular mineralised masses. The mine has been well opened up by means of adit levels driven into the mountain, one which is 700 feet in length across the formation exposing the mineralised zones. There are two lodes, the North and South, high values have been met with in these developments.

1471 Respondent's Exhibit 35. Estimate of capital necessary for development of Gael Mine.

RHODESIA BORDER MINING CORPORATION, LTD.

GAEL PROPERTIES

Capital Necessary for Development

Reconditioning, Dewatering, Underground Work:	£	S.	D.
A. Shaft Head:			
Head Frame Steel with sheave wheel complete	50.	0.	0.
500 ft. ⅝ Const. wire rope	15.	0.	0.
Shaft collar reinforcement expanded metal.	10.	0.	0.
B. Hoisting:			
Power Hoist, semi Deisel, shafting & Pulleys, or for direct drive	75.	0.	0.
Cages for Compound shaft	20.	0.	0.
Crab winch & Shear legs	22.	0.	0.
C. Pumping Machinery:			
25 H. P. Semi Deisel Type Horizontal engine with shaft & pulleys complete	200.	0.	0.
3 throw tangye geared pump 4" by 6" for 2600 gals. per hour	120.	0.	0.
Delivery pipe 2" bends, foot valves, etc.	40.	0.	0.
D. Compressor:			
1 Ingersol Rand Type Portable Compressor 3 Jack Hammer Drills	900.	0.	0.
500 ft. 2" air delivery with necessary bends and flexible hose	60.	0.	0.

E. Electrical Power:			
12 H. P. D. C. Generator & Starter	50.	0.	0.
6 H. P. D. C. Motor	45.	0.	0.
1 D. C. Lighting set, wiring & board, etc.	75.	0.	0.

1472

	£	S.	D.
Underground:			
Steel ladders 20-10 ft. lengths	40.	0.	0.
Rails 750 ft. 16 lb. 20 in. guage sleepers, turn outs, fish plates, etc.	120.	0.	0.
Trucks, 5 at £20	100.	0.	0.
Ventilating Fan, tubes, independent drive	75.	0.	0.
Mining timber	100.	0.	0.
Surface:			
Blacksmith Shop Forge, anvil, tools, stocks, and dies, Hack Saws, Jim Crow	50.	0.	0.
Lathe & Tools, minor Repairs	40.	0.	0.
Mining Tools:			
Drill steel, picks, shovels, bars, jumpers, etc.	50.	0.	0.
Dynamite, fuse, detonators, carbide lamps, etc.	50.	0.	0.
Construction:			
Cement—4 tons £7 per ton	28.	0.	0.
Concrete Mixers, screens, etc.	5.	0.	0.
Galvanized Iron, 26 Guage, 2 tons	50.	0.	0.
Angle Framing, bolts, etc.	15.	0.	0.
Fixtures, doors, windows, etc.	15.	0.	0.
Water tanks—2000 gallons	30.	0.	0.
Transport:			
2½ ton lorry	400.	0.	0.
15 Cwt. light lorry	175.	0.	0.
Spares, etc.	75.	0.	0.
Fuel:			
Crude Oil—20 tons	180.	0.	0.
Paraffin	50.	0.	0.
Petrol	100.	0.	0.
Erection Costs:	500.	0.	0.
Railway Charges: Sinoia Siding	100.	0.	0.
TOTAL	4,030.	0.	0.

1473

	£	S.	D.
Brought Forward:	4,030.	0.	0.
Estimate of Development Costs:			
Sinking No. 1 Shaft from 60 ft. level to 160 feet level at per foot £4.10.0	450.	0.	0.
Including timber drifting 500 ft. on lode at that level per foot incl. timber at £2.10 per foot	1,250.	0.	0.
Upraises 100 ft. per foot £3.0.0	300.	0.	0.
Reserve for further development	3,970.	0.	0.
TOTAL	10,000.	0.	0.

1474 Respondent's Exhibit 36. Estimate of capital necessary for development of Neardy Mine.

RHODESIA BORDER MINING CORPORATION, LTD.

NEARDY MINE

Capital Necessary for Development

		£	S.	D.
Cost of Plant:				
A.	**Compressor:**			
	No. 2 Portable Ingersol Rand Type Compressor for 2 Jack Hammer Drills complete	1,000.	0.	0.
	Pipe Line 2" 1400 ft.	80.	0.	0.
	Rails 1400 ft. 16 lb. 2 ft. guage sleepers, fish plates, bolts	150.	0.	0.
	Turnouts, trucks 6	80.	0.	0.
B.	**Blacksmith Shop:**			
	Forge, Tools, shovels, picks, hammers, jumpers, etc.	50.	0.	0.
	Tanks, 2-50 galns.	10.	0.	0.
	Drill Steel	10.	0.	0.
C.	**Ventilation:**			
	Ventube & Fan Independent Unit	100.	0.	0.
D.	**Supplies:**			
	Explosives, Fuse Detonators	60.	0.	0.
	Carbides, candles, lamps	10.	0.	0.
	Petrol	50.	0.	0.
	Crude Oil—4 tons	40.	0.	0.
	Parafin	20.	0.	0.
E.	**General Supplies for Kaffirs**	100.	0.	0.
F.	**Construction—Buildings:**			
	Corrugated Iron 2 tons	50.	0.	0.
	Angle Irons & Bolts for construction work	10.	0.	0.
	Cement—2 tons	14.	0.	0.
	Screens, etc.	5.	0.	0.
	Building sundries, doors, etc.	15.	0.	0.

1475

		£	S.	D.
G.	**Transportation:**			
	Light 30 cwt. lorry	175.	0.	0.
	Spares	50.	0.	0.
	General Reserve for mining, timber, steels, etc.	50.	0.	0.
	Incidentals	100.	0.	0.
		2,229.	0.	0.
	700 ft. drifting on main adit to South Lode—			
	Per month	225.	0.	0.
	Supplies	105.	0.	0.
	Total 3 months	960.	0.	0.
	Balance of development in reopening up shafts on property to ventilate lower adit and workings	1700.		
	Reserve	5111.		
	TOTAL	£10,000.	0.	0.

1476 Respondent's Exhibit 37. Estimate of capital necessary for development of Otjisongati Extension.

RHODESIA BORDER MINING CORPORATION, LTD.
OTJISONGATI EXTENSION
Capital Necessary for Development

	£	S.	D.
Prospecting Equipment:			
A. **Hoisting Plant:**			
2 light steel head frames portable	70.	0.	0.
½ in. wire rope 400 ft.	10.	0.	0.
2 hand winches 15 cwts. direct pull	25.	0.	0.
6 buckets (Iron) £5	30.	0.	0.
B. **Traming Plant:**			
4 cars at £20	80.	0.	0.
5000 ft. Rails 16 lb. 20 guage sleepers, frogs, etc.	50.	0.	0.
C. **Blacksmith Shop:**			
Forge, anvil, tools	20.	0.	0.
Picks, shovels, jumpers, bars	15.	0.	0.
Miscellaneous tools	10.	0.	0.
Dynamite, Fuse, Detonators	30.	0.	0.
Acetylene lamps, carbide	7.	0.	0.
D. **Construction:**			
Corrugated Iron 1 ton	25.	0.	0.
Angle Iron Nuts & Bolts	8.	10.	0.
Timber for framing	15.	0.	0.
Cement—2 tons	12.	10.	0.
Water tanks—2000 gals.	20.	0.	0.
E. **Transport:**			
Light lorry 30 cwts.	175.	0.	0.
Petrol and spares	75.	0.	0.
TOTAL	677.	0.	0.

1477

	£	S.	D.
Brought Forward	677.	0.	0.
Prospecting:			
Sinking 2 prospecting shafts on lode to 100 ft. level inc. timber £4 per ft.	400.	0.	0.
Drifting on Lode 500 ft. at £250 per foot	1,250.	0.	0.
Reserve for expenditure on this property	4,000.	0.	0.
TOTAL	6,327.	0.	0.

Leaving reserve to be expended on this and other properties of the Rhodesia Border Mining Corporation of £3673.

1477 Respondent's Exhibit 38. Certified copy of Section 122 of the Criminal Code of Illinois.

1478 Respondent's Exhibit 38. G. G. G. 10/16/31.

Certificate Number 13352.

STATE OF ILLINOIS

OFFICE OF THE SECRETARY OF STATE

To all to whom these Presents Shall Come, Greeting:

I, William J. Stratton, Secretary of State of the State of Illinois, do hereby certify that the following and hereto attached is a true copy of Section 122 of An Act to revise the law in relation to Criminal Jurisprudence, the original of which is now on file and a matter of record in this office.

IN TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois.

Done at the City of Springfield this 24th day of July, A. D. 1931.

WILLIAM J. STRATTON,
Secretary of State.

(Seal)

1479 *An act to revise the law in relation to Criminal Jurisprudence.*

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

FRAUDULENT CONVEYANCE

SECTION 122 OF REAL OR PERSONAL PROPERTY

Every person who shall be a party to any fraudulent conveyance of any lands, tenements, or hereditaments, goods or chattels, or any right or interest issuing out of the same, or to any bond, suit, judgment or execution, contract or conveyance had, made or contrived, with intent to deceive and defraud others, or to defeat, hinder or delay creditors or others of their just debts, damages or demands; or who, being a party as aforesaid, at any time shall wittingly and willingly put in use, avow, maintain, justify or defend the same or any of them as true, and done, had or made in good faith or upon good consideration, or shall sell, alien or assign any

of the lands, tenements, hereditaments, goods, chattels or other things before mentioned, to him conveyed as aforesaid, or any part thereof shall be fined not exceeding one thousand dollars.

S M CULLOM
Speaker of the House of Representatives.

JOHN EARLY
President of the Senate.

Approved March 27" 1874
JOHN L. BEVERIDGE
Governor

Filed Mar 27 1874
GEO H HARLOW
Sec'y of State

1481 Tuesday, October 20, 1931.
2 p. m.

Parties met pursuant to adjournment.

The Commissioner. Are you gentlemen ready to proceed with this extradition matter?

Mr. Stansbury: Yes. Your Honor, before the respondent rests, the respondent offers in evidence a question asked of Mr. Newman on the trial of Spellman and others, in England, relative to the Asbestos and Holdings Trust, Limited. The question was asked the witness there:

"Q. What is the position of the Asbestos Company 1482 now?

"A. There was a recent petition for the winding up of the company, but that petition has been dismissed and the company is carrying on."

The respondent also desires to offer, may it please your Honor,—

The Commissioner: Mr. Stansbury, how are you going to prove that?

Mr. Stansbury: I have read from the record of the shorthand notes of the Spellen trial held in England.

Mr. Gilbert: Any objection?

Mr. Overmyer: Yes, sure, because it does not tell the whole story. Even if authenticated, an authentically correct statement, it would not be admissible for the defense.

The Commissioner: I just wanted to know how you intended to meet that question, the correctness of the question and answer.

Mr. Stansbury: I am making the offer, if your Honor please.

The Commissioner: I just wondered how you would make proof of that question and answer, even if admisible for other reasons.

1483 Mr. Stansbury: There is no doubt in Mr. Overmyer's mind but what I have read from the transcripts of the record of the trial in England. He knows that.

Mr. Overmyer: No, I don't know it. I have no proof of it.

Mr. Stansbury: Do you contend that this is not the record of the trial in England?

Mr. Overmyer: I am not informed and am not prepared to admit.

Mr. Stansbury: Did you not agree with me on the question of the contract, the contract set forth in the record could be offered as exhibits here, that were not in the original record of the extradition proceedings begun by you?

Mr. Overmyer: That was done because you submitted copies which I later verified.

Mr. Stansbury: I have made the offer.

The Commissioner: Well, you are objecting, I understand.

Mr. Overmyer: Yes, I am, your Honor.

The Commissioner: On what ground?

Mr. Overmyer: On the ground, first, that it is not proper proof as to form, and secondly that obviously he has singled

1484 out one question and answer without giving the entire testimony, and I might say in connection with our discussion which he has mentioned, that I then said to him if I had the opportunity to examine the transcript so I might see what it said in its entirety, I might then agree to have that go in, but to take an isolated question and answer, we cannot do that. I further object on the ground it is defense evidence and not simply an explanation.

Mr. Stansbury: It is in explanation of a pretended fact, attempting to be proved by the British Government in the extradition proceedings that the Asbestos stock is worthless. An attempt to prove it by inference, not directly, by innu-

endo; not by circumstances, not by direct facts, but by sly innuendo out of the mouth of the man, namely, Newman, who testified directly to the contrary upon the trial of this lawsuit in London.

Mr. Overmyer: I might say, your Honor, we are further advised that this company is in no better position, as a matter of fact, than any of the others, but a different course
1485 of procedure was employed in the interest of the stockholders because they chose this proceeding, that is all there is to it.

The Commissioner: I think your objection is well taken if you object on the ground that there is not sufficient proof as to the question; I think if you are standing on that, I should think that objection would be well taken, unless you have some agreement on that point. If not, I will have to sustain the objection.

Mr. Stansbury: Exception. Now, may it please your Honor, before the respondent closes his case, he desires to file with your Honor a motion at the close of all evidence to dismiss the complaint, quash the warrant, recall the mittimus and discharge the respondent from custody. I am giving you the original of the motion. I do not know that there is any necessity of reading it into the record.

The Commissioner: No.

Mr. Stansbury: There is a copy for Mr. Overmyer.

Mr. Overmyer: Thank you.

Mr. Stansbury: I am offering it for the purpose of saving the record, and I do not intend to discuss it unless
1486 your Honor insists upon it.

The Commissioner: Well, that is substantially the same motion as was the motion at the close of your case. I do not know whether the demanding government has closed yet or not.

Mr. Stansbury: I would not have made it had I not been given to understand the demanding government had no further proof to offer.

The Commissioner: I have not been advised as to that.

Mr. Overmyer: I do not propose to make any further proof. I do want to file with your Honor before this is finally submitted, objections to the testimony of Major Pearson and to the legal experts, but that will be written objections that can be taken into account in the ultimate decision of the case.

The Commissioner: Very well.

Mr. Stansbury: So we may consider the evidence closed, is that correct?

Mr. Overmyer: Yes, sir.

Mr. Stansbury: I now present that motion to your
1487 Honor. I do not desire to argue it now unless you want me to.

The Commissioner: I think I will overrule that motion at this time.

Mr. Stansbury: Exception. I suppose the case is now ripe for argument.

The Commissioner: Yes. Just a moment before you begin. Can we come to any understanding how long the argument will take, although I will not put any limitation upon you?

Mr. Stansbury: I would rather that there would be no limitation put upon us. We will not exact any limitation put upon the Demanding Government.

(And thereupon counsel for the respective parties argued said cause to the Commissioner.)

1488 Motion of the respondent at the close of all the evidence to dismiss the complaint, quash the warrant, recall the mittimus, and discharge him from custody.

Now comes the respondent, John Factor, in his own proper person, and by Levinson, Becker, Glenn & Schwartz, and David D. Stansbury, his counsel, and moves the court:

First: To dismiss the complaint heretofore filed herein.

Second: To quash the warrant of the Commissioner by virtue of which he was arrested by the United States Marshal.

Third: To recall the mittimus of the United States Commissioner by virtue of which the respondent is now held in the custody of the United States Marshal.

Fourth: And to discharge him, the said respondent, from such custody.

And in support of such motion assigns the following grounds:

First: That the complaint of Godfrey Haggard, British Consul, heretofore filed with the Commissioner does not charge a violation of any law of the Kingdom of Great Britain.

Second: That the aforesaid complaint does not charge a violation of any law of the Kingdom of Great Britian with the certainty required by law.

Third: That it does not appear from the aforesaid complaint the respondent has violated any statute of the Kingdom of Great Britain.

Fourth: That is does not appear from the aforesaid complaint the respondent has not violated any law of the Kingdom of Great Britain.

Fifth: That the aforesaid complaint does not charge a violation of any law of the State of Illinois.

Sixth: That the aforesaid complaint does not charge any violation of any law of the State of Illinois with the certainty required by law.

Seventh: That the pretended misconduct attempted to be set out in the aforesaid complaint is not a crime in the Kingdom of Great Britain.

Eighth: That the pretended misconduct attempted to be set out in the aforesaid complaint is not a crime in the State of Illinois.

Ninth: That the pretended misconduct attempted to be set out in the aforesaid complaint is not made criminal by the laws of the Kingdom of Great Britain.

1490 Tenth: That the pretended misconduct attempted to be set out in the aforesaid complaint is not made criminal by the laws of the State of Illinois.

Eleventh: That the United States Commissioner was without authority of law to issue his warrant upon the aforesaid complaint.

Twelfth: That the warrant of the Commissioner directing the United States Marshal to arrest the respondent is void as a matter of law.

Thirteenth: That the aforesaid warrant of the Commissioner does not therein set out any violation of any law of the United States for which the respondent lawfully should be arrested and detained of his liberty.

Fourteenth: That the aforesaid warrant of the Commissioner does not therein set out any violation of any law of the State of Illinois for which the respondent lawfully should be arrested and detained of his liberty.

Fifteenth: That the United States Commissioner was and is without authority of law to issue his mittimus by virtue of which the respondent is now held in the custody of the United States Marshal.

Sixteenth: That the aforesaid mittimus is void as a matter of law.

Seventeenth: That the aforesaid mittimus does not therein set out any violation of any law of the United States for which the respondent lawfully can be committed to the custody of the United States Marshal.

Eighteenth: That the aforesaid mittimus does not therein set out any violation of any law of the State of Illinois for which the respondent lawfully can be committed to the custody of the United States Marshal.

1491 Nineteenth: That the United States Commissioner is without power to enter any order in this proceeding except to dismiss the aforesaid complaint, quash the aforesaid warrant, recall the aforesaid mittimus, and discharge the respondent.

Twentieth: That the United States Commissioner is without jurisdiction to enter any order in this proceeding except to dismiss the aforesaid complaint, quash the aforesaid warrant, recall the aforesaid mittimus, and discharge the respondent.

Twenty-first: That it appears from all of the evidence offered and received in this proceeding that the foregoing grounds in support of this motion are well founded in law.

Twenty-second: That it appears from all of the evidence offered in this proceeding that the foregoing grounds in support of this motion are well founded in fact.

Twenty-third: That it appears from all of the evidence offered in this proceeding that there is not sufficient evidence to warrant the Commissioner in finding that there is probable cause to believe there was any such crime as is attempted to be charged in the aforesaid complaint committed in the Kingdom of Great Britain.

Twenty-fourth: That it appears from all of the evidence offered in this proceeding that there is not sufficient evidence to warrant the Commissioner in finding that there is probable cause to believe there was any such crime as is attempted to be charged in the aforesaid complaint committed in the Kingdom of Great Britain by the respondent.

LEVINSON, BECKER, GLENN & SCHWARTZ,
DAVID D. STANSBURY,
Counsel for Respondent.

O. K. LEVINSON, BECKER, GLENN & SCHWARTZ,
BUTLER, POPE, BALLARD & ELTING.

ar. 114 And afterwards, to wit, on the 21st day of March 1932, being one of the days of the regular March term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable George A. Carpenter District Judge, appears the following entry, to wit:

115 * * (Caption) * *

Monday, March 21, 1932.

Present: Honorable George A. Carpenter, Judge of said Court.

This day again come the Respondents H. C. W. Laubenheimer, United States Marshal and Godfrey Haggard, British Consul General, by their attorneys and present herein their Bill of Exceptions which Bill of Exceptions is approved and signed by the Court and ordered by the Court to be filed by the Clerk of this Court.

12. 93 And on, to wit, the 12th day of February 1932 came Godfrey Haggard by his attorney and filed in the Clerk's office of said Court a certain Petition For Appeal in words and figures following, to wit:

94 * * (Caption) * *

PETITION OF GODFREY HAGGARD, HIS BRITANNIC MAJESTY'S CONSUL GENERAL, FOR LEAVE TO APPEAL FROM THE ORDER DISCHARGING THE RELATOR.

Now comes Godfrey Haggard, His Britannic Majesty's Consul General at Chicago, by Franklin R. Overmyer, his attorney, and shows unto the court that as such Consul General he did file the complaint before United States Commissioner Edwin K. Walker, a commissioner for the Northern District of Illinois and a commissioner duly authorized by the District Court therein to act as a commissioner under the laws of the United States concerning the extradition of fugitives from justice of a foreign government under a treaty or convention between this and a foreign government for the apprehension and arrest of Harry Wise, alias J. Factor, alias

Guest, alias J. Walker, the relator herein, as a fugitive from justice from London, England.

And your petitioner further shows that he is advised and verily believes that as such Consul General representing the Country interested in and demanding the surrender of said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, he was entitled to due notice of the application herein under the Statutes of the United States.

Your petitioner further shows that under the Treaties and laws of the United States and regulations governing such matters the demanding government has gone to the expense of causing the apprehension and arrest of the said Harry Wise, alias J. Factor, alias Guest, alias J. Walker, em-
95 ploying counsel to represent such demanding government and to justify and defend the order of the commissioner recommending to the secretary of State that the said petitioner, John Factor, be held for extradition.

Your petitioner further shows that there is involved in this proceeding the construction and application of the treaties between the United States and the Kingdom of Great Britain and the construction and application of the laws of the United States and of the State of Illinois.

Whereupon your petitioner, on behalf of the demanding government, feeling himself aggrieved by the final judgment heretofore made and entered by this Court on February 11th, 1932, discharging said John Factor, comes now by his attorney and petitions the Court for an order allowing him to prosecute an appeal from said final judgment to the Circuit Court of Appeals for the Seventh Circuit, under and according to the laws of the United States in that behalf made and provided, and also that an order may be entered fixing the security to be given by your petitioner, and that said appeal may be prosecuted, jointly or severally, with the appeal of H. C. W. Laubenheimer, United States Marshal.

And your petitioner will ever pray.

GODFREY HAGGARD.
Godfrey Haggard,
His Britannic Majesty's Consul General.
By FRANKLIN R. OVERMEYER
His Counsel.

96 And on, to wit, the 12th day of February 1932 came the Petitioner by his attorney and filed in the Clerk's office of said Court a certain Petition For Appeal in words and figures following, to wit:

12, 97 * * (Caption) * *

PETITION FOR APPEAL BY H. C. W. LAUBENHEIMER, UNITED STATES MARSHAL.

And now comes H. C. W. Laubenheimer, United States Marshal in his own proper person and by Franklin R. Overmyer, his counsel, and respectfully represents that on the 11th day of February, 1932, being one of the days of the February A. D. 1932 Term of the United States District Court for the Northern District of Illinois, Eastern Division, a judgment was entered by this Court discharging the relator, John Factor, from the custody of this petitioner.

And your petitioner respectfully represents that in said record, proceedings and judgment in this cause lately pending against your petitioner manifest errors have intervened to the prejudice and injury of your petitioner, all of which will appear more in detail in the Assignment of Errors which is filed with this petition.

Wherefore, your petitioner prays that an appeal may be allowed from the said judgment to the United States Circuit Court of Appeals for the Seventh Circuit, to be pursued jointly and severally with the appeal herein prayed from said judgment by Godfrey Haggard, His Britannic Majesty's Consul General.

H. C. W. LAUBENHEIMER,
United States Marshal for the Northern District of Illinois.
By FRANKLIN R. OVERMEYER,
Of Counsel.

100 And on, to wit, the 12th day of February 1932 came the Petitioners by their attorney and filed in the Clerk's office of said Court a certain Assignment Of Errors in words and figures following, to wit:

101 * * (Caption) * *

ASSIGNMENT OF ERRORS.

And now comes H. C. W. Laubenheimer, United States Marshal for the Northern District of Illinois, Eastern Division, and Godfrey Haggard, his Britannic Majesty's Consul

General, by Franklin R. Overmyer, their attorney, and in connection with their petitions for a joint and several appeal, say that the record and proceedings and judgment aforesaid, and during the hearing of the above entitled cause in the United States District Court for the Northern District of Illinois, Eastern Division, error has intervened to the prejudice of them and each of them, and they and each of them hereby assign the following errors, to-wit:

1st: The Court erred in holding as a fact that receiving money knowing the same to have been fraudulently obtained is not a crime under the laws of the State of Illinois.

2nd: The Court erred in holding as a matter of law that receiving money knowing the same to have been fraudulently obtained is not a crime under the laws of the State of Illinois.

3rd: The Court erred in holding that it was necessary for the acts to be criminal under the law of Illinois in order that extradition might follow.

4th: The Court erred in discharging the relator.

5th: The order of the United States District Court for the Northern District of Illinois, Eastern Division, is 102 contrary to law.

6th: The order of the United States District Court for the Northern District of Illinois, Eastern Division, is contrary to the facts as shown by the record.

7th: The Court erred in holding that the relator, at the time of the issuing and the serving of the said writ of habeas corpus, and at the time of its order of discharge, was unlawfully detained by the said H. C. W. Laubenheimer, and ought not to be remanded to his custody.

8th: The Court erred in holding that the United States Commissioner who committed the said relator and sent his report to the Secretary of State was without jurisdiction.

9th: The Court erred in refusing to follow the ruling of the District Court for the Northern District of Illinois, Eastern Division, in Case No. 39775.

10th: The Court erred in refusing to follow the rule of law laid down by the District Court of the United States in the case of Kelly vs. Griffin, with the Ho. orable Kenesaw M. Landis, United States District Judge presiding.

11th: The Court erred in its interpretation of the opinion of the Supreme Court in the case of *Kelly* v. *Griffin*, 241 U. S. page 6.

12th: The Court erred in refusing to follow the holding of the Supreme Court of the United States in the case of *Kelly* v. *Griffin*, 241 U. S. page 6, to the effect that receiving money

knowing it to have been fraudulently obtained is criminal by the laws of Illinois.

13th: The Court erred in refusing to adopt the construction of the treaty by the high contracting parties, that extradition was proper from the State of Illinois for this offense.

In consequence whereof petitioners and appellant, and each of them, pray that the said judgment made and entered herein on the 11th day of February, 1932, be reversed and the
103 relator remanded to the custody of H. C. W. Laubenheimer, United States Marshal, to be dealt with in conformity with the mittimus heretofore issued by United States Commissioner Edwin K. Walker.

H. C. W. LAUBENHEIMER,
United States Marshal for the Northern District of Illinois, Eastern Division,
and
GODFREY HAGGARD,
His Britannic Majesty's Consul General, as representative of the Kingdom of Great Britain, the demanding government, jointly and severally.
By FRANKLIN R. OVERMEYER,
Their Attorney.

98 And afterwards, to wit, on the 12th day of February 1932, being one of the days of the regular February term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable George A. Carpenter District Judge, appears the following entry, to wit:

99 * * (Caption) * *

ORDER ALLOWING APPEAL.

On reading the petitions of H. C. W. Laubenheimer, United States Marshal, and Godfrey Haggard, His Britannic Majesty's Consul General, dated February 12th, 1932, and upon reading and considering the assignment of errors presented therewith,

It Is Ordered: That the appeal prayed for by said H. C. W. Laubenheimer, United States Marshal, and Godfrey Haggard, His Britannic Majesty's Consul General, be and the same is hereby allowed as prayed for; and

It Is Further Ordered that a certified transcript of the record and all proceedings herein be transmitted to the Circuit Court of Appeals for the Seventh District; and

It Is Further Ordered that the said petitioners be required to give a cost bond in the sum of Two Hundred Fifty ($250.00) Dollars in connection with their said appeal; and

It Is Further Ordered that said appeal may be pursued, jointly and severally, as may be necessary.

Enter

CARPENTER
United States District Judge.

12 Feb 1932

104 And on, to wit, the 12th day of February 1932 come Filed 193
Godfrey Haggard, British Consul General and H. C. W. Laubenheimer, U. S. Marshal, as principal and Wendell H. Ney as surety, and filed in the Clerk's office of said Court, in said entitled cause, a certain Bond on Appeal in words and figures following, to wit:

105 Know all Men by these Presents:

That we, Godfrey Haggard, British Consul General and H. C. W. Laubenheimer, U. S. Marshal, as principal, and W. H. Ney, as sureties, are held and firmly bound unto John Factor in the full and just sum of Two Hundred Fifty Dollars to be paid to the said John Factor attorneys, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals and dated this 12th day of February in the year of our Lord one thousand nine hundred and Thirty-two.

Whereas, lately at a session of the District Court of the United States for the Northern District of Illinois, in a suit pending in said Court, between U. S. ex rel John Factor plaintiff, H. C. W. Laubenheimer, U. S. Marshal and Godfrey Haggard British Consul defendants a decree was rendered against the said H. C. W. Laubenheimer, U. S. Marshal and Godfrey Haggard, British Consul General and the said H. C. W. Laubenheimer U. S. Marshal and Godfrey Haggard, British Consul General having obtained from said Court an order allowing an appeal to the United States Circuit Court

of Appeals for the Seventh Circuit, and filed a copy thereof in the Clerk's Office of the said Court to reverse the decree of the aforesaid suit, and a citation directed to the said John Factor citing and admonishing to be and appear at the United States Circuit Court of Appeals for the Seventh Circuit, to be holden at Chicago within thirty days from the date hereof.

Now, the condition of the above obligation is such, that if the said H. C. W. Laubenheimer U. S. Marshal and Godfrey Haggard, British Consul General shall prosecute their said appeal to effect, and shall answer all damages and costs that may be awarded against them if they fail to make their plea good, then the above obligation to be void; otherwise to remain in full force and virtue.

GODFREY HAGGARD
British Consul General (Seal)
H. C. W. LAUBENHEIMER
U. S. Marshal (Seal)
WENDALL H. Ney (Seal)

Sealed and delivered in presence of:

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.....

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Approved by:
CARPENTER
Judge.
12 Feb. 1932

G. H.
G. G. G. Jr.

106 And afterwards, to wit, on the 12th day of February 1932, being one of the days of the regular February term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable George A. Carpenter District Judge, appears the following entry, to wit:

107 * * (Caption) * * Entered 12, 1

Friday, February 12, 1932.

Present Honorable George A. Carpenter, Judge of said Court.

This day come the petitioners by their attorneys and present their cost bond in the penal sum of Two Hundred and Fifty Dollars ($250.00) which bond is approved and signed by the court and ordered by the court to be filed by the Clerk of this court and sixty (60) days time from this date is allowed the petitioners within which to file their Bill of Exceptions herein.

108 And afterwards, to wit, on the 4th day of March 1932, being one of the days of the regular March term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward District Judge, appears the following entry, to wit: Entered 1932

109 * * (Caption) * *

Friday, March 4, 1932.

Present: Honorable Charles E. Woodward, Judge of said Court.

On motion of attorney for the Respondent It Is Ordered that leave be and the same is hereby given to remove the respondent's exhibits in proceedings before Commissioner Walker from his return of the writ of certiorari for five (5) days upon giving receipt for same.

110 And on, to wit, the 9th day of March 1932 came the Respondents by their attorneys and filed in the Clerk's office of said Court a certain Notice in words and figures following, to wit:

Mar. 9. 111 * * (Caption) * *

NOTICE.

To: Levinson, Becker, Glenn & Schwartz, Counsel for John Factor:

Please take notice that on March 9th 1932, at 10:00 o'clock A. M. we shall appear before his Honor, Judge Woodward, and move the Court to extend the time of the respondents, H. C. W. Laubenheimer, U. S. Marshal, and Godfrey Haggard, British Counsel General, to docket and file the transcript of the record in this matter in the U. S. Circuit Court of Appeals to and including March 30th, 1932, at which time and place you may appear if you so see fit.

PETIT, OLIN & OVERMEYER
Attorney for Respondents.

Received a copy of the above and foregoing notice this 8th day of March A. D. 1931.

LEVINSON, BECKER, GLENN & SCHWARTZ

Mar. 9. 112 And afterwards, to wit, on the 9th day of March 1932, being one of the days of the regular March term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward District Judge, appears the following entry, to wit:

113 * * (Caption) * *

Wednesday, March 9, 1932.

Present: Honorable Charles E. Woodward, Judge of said Court.

On motion of attorneys for H. C. W. Laubenheimer, United States Marshal nad Godfrey Haggard, British Consul General It Is Ordered that the time within which to docket and file their appeal in the Circuit Court of Appeals for the Seventh Circuit be and the same is hereby extended to and included March 30, A. D. 1932 whereupon the appellants present herein their bill of exceptions which bill of exceptions is marked presented by the court and taken under advisement this ninth day of March A. D. 1932.

504 * * (Caption) * * Filed 1932

PRAECIPE.

To: Charles M. Bates, Clerk of the District Court aforesaid:

Please prepare a transcript of the record in the above entitled cause, for use in the Circuit Court of Appeals for the Seventh Circuit upon said appeal from the District Court of the United States in and for the Northern District of Illinois, Eastern Division, and incorporate in said transcript the following:

1. Petition of John Factor for writs of habeas corpus and certiorari, omitting exhibits which appear in Commissioner's return, except the Commissioner's mittimus.
2. Order entered directing the writ of habeas corpus and certiorari to issue.
3. Writs of habeas corpus and certiorari.
4. Return of United States Marshal.
5. Orders of continuance.
6. Petition of Godfrey Haggard, British Counsel General, for leave to be made a respondent and to file his answer instanter.
7. Order allowing Godfrey Haggard, British Consul General, to become a party and giving leave to file his answer instanter, and providing that the traverse to the Marshal's return stand as a traverse to the answer of said Godfrey Haggard.
8. Answer of Godfrey Haggard, British Consul General.

505 9. Traverse of the relator, John Factor.

10. Order of February 11th, 1932, discharging the relator, John Factor, upon his filing bond.
11. Bond of John Factor.
12. Bill of exceptions.
13. Petition of Godfrey Haggard, British Consul General, for allowance of appeal.
14. Petition of H. C. W. Laubenheimer, United States Marshal, for allowance of appeal.
15. Order allowing appeal.
16. Assignment of errors.
17. Appeal bond for costs executed by Godfrey Haggard,

British Consul General, and H. C. W. Laubenheimer, United States Marshal.

18. Citation.

19. This praecipe.

20. Order giving time to file bill of exceptions.

21. Any other order, if any, and any other pleading, if any, in said cause or proceeding, omitting, however, the return and record of Commissioner Walker to the writ of certiorari as same appears in the Bill of exceptions.

FRANKLIN R. OVERMEYER
Attorney for Respondent Appellant.

Received a copy of the foregoing praecipe for record this 15th day of February, A. D. 1932.

G. GALE GILBERT JR.
Attorneys for John Factor

Endorsed: Filed February 15, 1932 Charles M. Bates, Clerk.

19. 506 * * (Caption) * *

APPELLEE'S PRAECIPE.

To Charles M. Bates, Clerk of the District Court for the Northern District of Illinois, Eastern Division:

In the preparation of your transcript of the record in the above entitled cause for use in the Circuit Court of Appeals for the Seventh Judicial Circuit upon appeal from the United States District Court for the Northern District of Illinois, Eastern Division, you will please incorporate in said transcript, in addition to the documents enumerated in the appellant's praecipe heretofore filed in this cause, the following:

1. Every and all petitions, orders, writs, returns, intervening petitions, answers to intervening petitions, traverse to returns, bonds, opinions, judgments and every and all documents of every kind and nature whatsoever filed, entered, issued, submitted or used in said cause, including specifically:

507 (a) All exhibits attached to and made a part of the petitions of John Factor for writs of habeas corpus and certiorari.

(b) Return of Edwin K. Walker, United States Commissioner to the writ of certiorari issued out of said court.

2. The opinion of Judge George A. Carpenter rendered in the above entitled cause on February 11th, A. D. 1932.

LOUSON; BECKER, GLENN & SCHWARTZ,
Attorneys for Appellee.

Received a copy of the foregoing Praecipe this 19th day of February, A. D. 1932.

PETIT, OLIN & OVERMEYER,
FRANKLIN R. OVERMEYER,
Attorneys for Appellants.

Endorsed: Filed February 19, 1932, Charles M. Bates, Clerk.

508 Northern District of Illinois } ss.
Eastern Division }

I, Charles M. Bates, Clerk of the District Court of the United States for the Northern District of Illinois, do hereby certify the above and foregoing to be a true and complete transcript of the proceedings had of record made in accordance with Praecipe filed in this Court in the cause entitled United States of America ex rel John Factor vs. H. C. W. Laubenheimer, United States Marshal, et al, No. 40323 as the same appear from the original records and files thereof now remaining in my custody and control.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at my office, in the City of Chicago, in said District, this 26th day of March, A. D. 1932.

CHARLES M. BATES,
Clerk.

(Seal)

509 United States of America } ss.

To: John Factor, described in the extradition proceedings as Harry Wise, alias J. Factor, alias Guest, alias J. Walker:

You Are Hereby Cited and Admonished to be at the Circuit Court of Appeals at the Seventh Judicial Circuit to be holden in Chicago in the State of Illinois on the 12 day of March, 1932, pursuant to an appeal filed in the Office of the Clerk of the District Court of the United States for the Northern District of Illinois, and allowed, wherein H. C. W. Laubenheimer, United States Marshal, and Godfrey Haggard, His Britannic Majesty's Consul General, are appellant and said John Factor is appellee, to show cause, if any there be, why the order and judgment of the District Court of the United States for the Northern District of Illinois, entered on the 11th day of February, 1932, in the matter of the petition of said John Factor for a writ of habeas corpus, in which he was discharged, and which said petition for appeal and order mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Honorable George A. Carpenter, Judge of the United States District Court, this 11th day of February, A. D. 1932.

GEORGE A. CARPENTER,
Judge.

Due service of above citation by copy this 11th day of February. 1932, is admitted.

G. GALE GILBERT, JR.,
Attorney for John Factor.

510 Endorsed: * * (Caption) * * Citation. Filed Feb. 15, 1932, Charles M. Bates, Clerk.